

MONTANA LEGISLATIVE HISTORY

Chapter 481 ~~19~~ 2007

Bill H _____ S 96 Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) h 3/09 _____ c

v 4/03 _____ c

_____ c

_____ c

Date Out _____ c

S. Committee on State Admin

Hearing Date(s) h 2/07 _____ c

v 2/20/19 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

Conference Committee

4/18

4/20

Montana
Legislative
Branch

Montana Legislature

Detailed Bill Information



| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Bill Draft Number: LC0575 **Current Bill Text:** [HTML](#) [PDF](#) (w/line numbers) **NEW**

Bill Type - Number: SB 96 [Fiscal Note](#)

Short Title: Generally revise initiative and referendum process

Primary Sponsor: Carol Williams

Chapter Number: 481

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 69

[Print Friendly](#)

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/11/2007			
(S) Signed by Governor	05/11/2007			
(S) Transmitted to Governor	05/08/2007			
(H) Signed by Speaker	05/02/2007			
(S) Signed by President	04/27/2007			
(S) Returned from Enrolling	04/27/2007			
(C) Sent to Printing	04/27/2007			
(S) Sent to Enrolling	04/26/2007			
(H) 3rd Reading Conference Committee Report Adopted	04/26/2007	86	14	
(H) Scheduled for 3rd Reading	04/26/2007			
(S) 3rd Reading Conference Committee Report Adopted	04/25/2007	45	5	
(H) 2nd Reading Conference Committee Report Adopted	04/25/2007	91	9	
(S) 2nd Reading Conference Committee Report Adopted on Voice Vote	04/25/2007	50	0	
(S) Scheduled for 3rd Reading	04/25/2007			
(H) Scheduled for 2nd Reading	04/25/2007			

(S) Scheduled for 2nd Reading	04/25/2007			
(H) Conference Committee Report Received	04/24/2007			
(S) Conference Committee Report Received	04/24/2007			
(S) Hearing	04/20/2007			(S) Conference
(S) Hearing	04/20/2007			(S) Conference
(S) Hearing	04/18/2007			(S) Conference
(H) Conference Committee Appointed	04/14/2007			
(S) Conference Committee Appointed	04/13/2007			
(S) 2nd Reading House Amendments Not Concurred on Voice Vote	04/13/2007	50	0	
(S) Scheduled for 2nd Reading	04/13/2007			
(H) Returned to Senate with Amendments	04/04/2007			
(H) 3rd Reading Concurred	04/04/2007	87	12	
(H) Scheduled for 3rd Reading	04/04/2007			
(H) On Motion Rules Suspended	04/04/2007			
(C) Sent to Printing	04/04/2007			
(H) 2nd Reading Concurred as Amended	04/04/2007	92	8	
(H) 2nd Reading Motion to Amend Failed	04/04/2007	28	70	
(H) 2nd Reading Motion to Amend Carried	04/04/2007	71	29	
(C) Sent to Printing	04/04/2007			
(H) Scheduled for 2nd Reading	04/04/2007			
(H) Committee Report--Bill Concurred as Amended	04/03/2007			(H) Judiciary
(H) Committee Executive Action--Bill Concurred as Amended	04/03/2007	10	7	(H) Judiciary
(H) Hearing	03/20/2007			(H) Judiciary
(H) Referred to Committee	03/09/2007			(H) Judiciary
(H) First Reading	03/09/2007			
(S) Transmitted to House	02/24/2007			
(S) 3rd Reading Passed	02/24/2007	42	8	
(S) Scheduled for 3rd Reading	02/24/2007			
(S) 2nd Reading Passed on Voice Vote	02/23/2007	43	5	
(S) Scheduled for 2nd Reading	02/23/2007			
(C) Sent to Printing	02/20/2007			
(S) Committee Report--Bill Passed	02/20/2007			(S) State Administration
(S) Committee Executive Action--Bill Passed as Amended	02/20/2007	11	0	(S) State Administration
(S) Hearing	02/07/2007			(S) State

				Administration
(S) Fiscal Note Printed	01/04/2007			
(S) Fiscal Note Signed	01/04/2007			
(S) First Reading	01/03/2007			
(S) Fiscal Note Received	01/02/2007			
(S) Referred to Committee	12/20/2006			(S) State Administration
(S) Fiscal Note Requested	12/19/2006			
(C) Introduced Bill Text Available Electronically	12/15/2006			
(S) Introduced	12/15/2006			
(C) Pre-Introduction Letter Sent	12/06/2006			
(C) Draft in Assembly/Executive Director Review	12/06/2006			
(C) Draft in Final Drafter Review	12/05/2006			
(C) Bill Draft Text Available Electronically	12/04/2006			
(C) Draft in Input/Proofing	12/01/2006			
(C) Draft to Drafter - Edit Review [CMD]	12/01/2006			
(C) Draft in Edit	11/30/2006			
(C) Draft in Legal Review	11/30/2006			
(C) Draft to Requester for Review	11/24/2006			
(C) Draft to Requester for Review	11/15/2006			
(C) Draft On Hold	10/30/2006			
(C) Draft Request Received	10/03/2006			

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Williams	Carol	
Drafter	Petes	Greg	
By Request Of	Secretary of State		
By Request Of	Department of Justice		
Primary Sponsor	Williams	Carol	

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Ballot Issues (see also: Elections)		Simple	BAL

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Additional Bill Information

Probable Fiscal Note: Yes

Preintroduction Required: Y

Session Law Ch. Number: 481

DEADLINE

Category: General Bills

Transmittal Date: 02/28/2007

Return (with 2nd house amendments) Date: 04/05/2007

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	11-MAY-07	

| [Top](#) | [Actions](#) | [Sponsor, etc.](#) | [Subjects](#) | [Add'l Bill Info](#) | [Eff. Dates](#) | [New Search](#) |

04/10/2012 11:56 AM Mountain Time

| [Look Up Bill Information](#) | [Committee and Hearing Information](#) |

| [House Agenda\(s\)](#) | [House Journals](#) | [Daily House Floor Actions](#) |

| [Senate Agenda\(s\)](#) | [Senate Journals](#) | [Daily Senate Floor Actions](#) |

| [Legislator Information](#) | [Reports](#) |

| [Legislative Branch Home Page](#) | [Current Session Home Page](#) | [Session Information Page](#) |

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SENATE BILL NO. 96

INTRODUCED BY C. WILLIAMS

BY REQUEST OF THE DEPARTMENT OF JUSTICE AND THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO INITIATIVES AND REFERENDUMS; REVISING THE PROCEDURE FOR REVIEWING A PROPOSED BALLOT ISSUE; REVISING THE ATTORNEY GENERAL'S PROCEDURE FOR PREPARING BALLOT STATEMENTS AND REVIEWING PROPOSED BALLOT ISSUES FOR LEGAL SUFFICIENCY; PROVIDING THAT THE SUPREME COURT HAS ORIGINAL JURISDICTION TO HEAR CHALLENGES TO THE ATTORNEY GENERAL'S BALLOT STATEMENTS AND DETERMINATION OF LEGAL SUFFICIENCY; REQUIRING THE ATTORNEY GENERAL TO PREPARE A STATEMENT IF A PROPOSED BALLOT ISSUE CONFLICTS WITH ANOTHER PROPOSED BALLOT ISSUE; REQUIRING THE SECRETARY OF STATE TO PREPARE THE PETITION FORM FOR BALLOT ISSUES; PROVIDING THAT SIGNATURE GATHERERS MUST BE MONTANA RESIDENTS AND MAY NOT BE PAID BASED UPON THE NUMBER OF SIGNATURES GATHERED; ELIMINATING THE CERTIFICATION OF SIGNATURES BY A PERSON WHO ASSISTED IN GATHERING THE SIGNATURES; PROVIDING FOR CONSISTENT USE OF DEFINED TERMS; AMENDING SECTIONS 3-2-202, 3-5-302, 13-1-101, 13-22-102, 13-27-102, 13-27-201, 13-27-202, 13-27-204, 13-27-205, 13-27-207, 13-27-208, 13-27-302, 13-27-312, 13-27-315, 13-27-316, 13-27-402, 13-27-403, 13-27-501, 13-35-207, 13-37-210, 13-37-226, AND 13-37-228, MCA; AND REPEALING SECTIONS 13-27-310 AND 13-27-313, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2-202, MCA, is amended to read:

"3-2-202. Original jurisdiction -- contest review of ballot issue statements.

(1) ~~Except as provided in subsection (3), in~~ In the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

(2) ~~It also~~ The supreme court has the power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

~~(3) (a) Except as provided in subsection (3) (b), a contest of a ballot issue~~

~~submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~—— (i) violation of the law relating to qualifications for inclusion on the ballot;~~
~~—— (ii) constitutional defect in the substance of a proposed ballot issue; or~~
~~—— (iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (b) A contest of a ballot issue based on subsection (3)(a)(i) or (3)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

(3) The supreme court has original jurisdiction to review the attorney general's ballot statements and legal sufficiency determination in an action brought pursuant to 13-27-316.

~~—— (e)~~ (4) Nothing in subsection (3) limits the right to challenge a measure ballot issue enacted by a vote of the people."

Section 2. Section 3-5-302, MCA, is amended to read:

"3-5-302. Original jurisdiction. (1) ~~Except as provided in subsection (6), the~~ The district court has original jurisdiction in:

(a) all criminal cases amounting to felony;
 (b) all civil and probate matters;
 (c) all cases at law and in equity;
 (d) all cases of misdemeanor not otherwise provided for; and
 (e) all ~~such~~ special actions and proceedings ~~as~~ that are not otherwise provided for.

(2) The district court has concurrent original jurisdiction with the justice's court in the following criminal cases amounting to misdemeanor:

(a) misdemeanors arising at the same time as and out of the same transaction as a felony or misdemeanor offense charged in district court;

(b) misdemeanors resulting from the reduction of a felony or misdemeanor offense charged in the district court; and

(c) misdemeanors resulting from a finding of a lesser included offense in a felony or misdemeanor case tried in district court.

(3) The district court has exclusive original jurisdiction in all civil actions that might result in a judgment against the state for the payment of money.

(4) The district court has the power of naturalization and of issuing papers ~~therefor~~ for naturalization in all cases where it is authorized to do so by the laws of the United States.

(5) The district court and its judges have power to issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and injunction, other original remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held in actual custody in their respective districts. Injunctions and writs of prohibition and habeas corpus may be issued and served on legal holidays and nonjudicial days.

~~—— (6) (a) Except as provided in subsection (6) (b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~—— (i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~—— (ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~—— (iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (b) A contest of a ballot issue based on subsection (6) (a) (i) or (6) (a) (iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~—— (c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people."~~

Section 3. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector who voted in the previous federal general

election and whose name is on the active list.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means:

(a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; and

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of

money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's

family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its

qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon ~~approval~~ preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(31) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."

Section 4. Section 13-22-102, MCA, is amended to read:

"13-22-102. Purpose and intent. The intent of the legislature is to establish a nonpartisan youth voting program that will:

(1) provide the youth of Montana with practical experience in the democratic process;

(2) increase the likelihood that Montana's youth will participate in the process as adult voters and encourage the participation of more parents in elections;

(3) not benefit any elected official, candidate for elective office, political party, campaign for or against any ballot issue, or any ~~measure~~ proposed ballot issue attempting to qualify for placement on a ballot; and

(4) be entirely funded through private donations."

Section 5. Section 13-27-102, MCA, is amended to read:

"13-27-102. Who may petition and gather signatures. (1) A petition for the initiative, the referendum, or to call a constitutional convention may be signed only

by a qualified elector of the state of Montana.

(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional convention:

(a) must be a resident of the state of Montana; and

(b) may not be paid based upon the number of signatures gathered."

Section 6. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the ~~measure~~ issue to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the ~~measure~~ issue proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the ~~measure~~ issue must be in the bill form provided in the most recent issue edition of the bill drafting manual furnished by the legislative services division and may not contain a preamble or argumentative language. If sheets are circulated in sections, the complete text of the ~~measure~~ issue must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 13-27-302."

Section 7. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required. ~~(1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:~~

~~—— (a) The text of the proposed measure must be submitted to the legislative services division for review.~~

(1) A proponent of a ballot issue shall submit the text of the proposed issue to the secretary of state. The text may not be submitted more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall forward a copy of the text of the proposed issue to the legislative services division for review.

~~—— (b) (2) (a) The legislative services division staff shall review the text for clarity, consistency, conformity with the most recent edition of the bill drafting manual furnished by the legislative services division, and any other factors that the staff considers when drafting proposed legislation.~~

~~—— (c) (b) Within 14 days after submission of the text, the legislative services division staff shall make recommend in writing to the person submitting the text written recommendations for changes in proponent revisions to the text or a statement state that no changes revisions are recommended.~~

~~—— (d) (c) The person submitting the text proponent shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended changes revisions. If no changes revisions are not recommended, no a response is not required.~~

~~—— (2) (3) The legislative services division shall furnish a copy of the correspondence provided for in subsection (1) (2) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.~~

~~—— (3) (4) Before a petition may be circulated for signatures, a sample sheet containing the final text of the proposed measure issue must be submitted to the secretary of state in the form in which it will be circulated. The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall reject the proposed issue if the text contains material not~~

~~submitted to the legislative services division that is a substantive change not recommended by the legislative services division. The If accepted, the secretary of state shall refer a copy of the petition-sheet proposed issue to the attorney general for approval a determination as to legal sufficiency and for preparation of ballot statements pursuant to 13-27-312. The secretary of state and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division.~~

~~——(4)(5) (a) The secretary of state shall review the comments legal sufficiency opinion and ballot statements of the attorney general received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the petition.~~

~~(b) If the attorney general approves the proposed issue, the secretary of state shall immediately send to the person submitting the proposed issue a sample petition form, including the text of the proposed issue, the statement of purpose, and the statements of implication, as prepared by the attorney general and in the form provided by this part. A signature gatherer may circulate the petition only in the form of the sample prepared by the secretary of state. The secretary of state shall immediately~~

provide a copy of the sample petition form to any interested parties who have made a request to be informed of an approved petition.

~~———(b)(c) The If the attorney general rejects the proposed issue, the secretary of state shall send written notice to the person who submitted the petition sheet proposed issue of the approval or rejection, of the form of the petition within 28 days after submission of the petition sheet including the attorney general's legal sufficiency opinion.~~

~~———(e)(d) If an action is filed challenging the validity of the petition, the secretary of state shall immediately notify the person who submitted the petition sheet proposed issue.~~

~~———(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.~~

~~———(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implication, all as approved by the secretary of state and the attorney general. The petition may be circulated by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the attorney general pending a final determination of its legal sufficiency."~~

Section 8. Section 13-27-204, MCA, is amended to read:

"13-27-204. Petition for initiative. (1) The following is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO. _____

ON THE ELECTION BALLOT

(a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of voters signing this petition is _____, this ~~measure~~ initiative will appear on the next general election ballot. If a majority of voters vote for this ~~measure~~ initiative at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state

place the following ~~measure~~ initiative on the _____, 20__, general election ballot:

(Title of ~~measure~~ initiative written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ initiative, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~ initiative on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ initiative.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 9. Section 13-27-205, MCA, is amended to read:

"13-27-205. Petition for referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO. _____

ON THE ELECTION BALLOT

(a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this ~~measure~~ referendum at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number ____, passed by the legislature on _____ on the next general election ballot:

(Title of referendum written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ referendum, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~ referendum on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ referendum.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, ~~or~~ who signs more than once for the same issue at one election, or signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person ~~must~~ is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter ~~registry~~ registration card, or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, legislative representative district number, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 10. Section 13-27-207, MCA, is amended to read:

"13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL

AMENDMENT NO. ____ ON

THE ELECTION BALLOT

(a) If 10% of the voters in each of one-half of the counties sign this petition and the total number of voters signing the petition is ____, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the ____, 20__, general election ballot:

(Title of the proposed constitutional amendment written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the ~~measure~~ constitutional amendment, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the constitutional amendment on the ballot and does not necessarily mean the signer agrees with the amendment.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, county of residence, and printed last

name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 11. Section 13-27-208, MCA, is amended to read:

"13-27-208. Petitions to be made available in each county election administrator's office. Upon final approval of ~~a petition~~ a proposed ballot issue as ~~required under 13-27-202(4)~~ provided in 13-27-202, the secretary of state shall forward a copy of the petition, along with signature sheets, to the election administrator of each county. The election administrator shall make a copy of each approved petition available for reading ~~and signing~~ in the administrator's office during business hours in an election year until the petitions are submitted under 13-27-301. The secretary of state may charge the person who submitted the ~~petition~~ proposed ballot issue a fee, which must be set and deposited in accordance with 2-15-405."

NEW SECTION. **Section 12. Issues referred by legislature.** The secretary of state shall transmit a copy of an act referred to the people or a constitutional amendment proposed by the legislature to the attorney general no later than 6 months before the election at which the issue will be voted on by the people.

Section 13. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who is the signature gatherer), swear that I gathered ~~or assisted in gathering~~ the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number

following the person's signature, and that the signers knew the contents of the petition before signing the petition.

(date on which the first signature was gathered)

(Signature of petition signature gatherer)

(Address of petition signature gatherer)

Subscribed and sworn to before me this ____ day of _____, 20__

Seal

(Person authorized to take oaths)

(Title or notarial information)"

Section 14. Section 13-27-312, MCA, is amended to read:

"13-27-312. Review of petition proposed ballot issue by attorney general -- preparation of statements -- fiscal note. (1) Upon receipt of a petition proposed ballot issue from the office of the secretary of state pursuant to 13-27-202, the attorney general shall examine the ~~petition as to form and proposed issue for~~ legal sufficiency, and prepare ballot statements as provided in ~~13-27-202, and, if the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205~~ this section. The ~~budget director, in cooperation with the agency or agencies affected by the petition, is responsible for preparing the fiscal note and shall return it within 6 days unless the attorney general, for good cause shown, extends the time for completing the fiscal note.~~

(2) ~~If the petition form is approved, the~~ The attorney general shall endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall prepare:

(a) a statement, not to exceed 100 words, explaining the purpose of the ~~measure~~

issue; and

(b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against the measure issue.

(3) If the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the ballot issue, is responsible for preparing the fiscal note and shall return it to the attorney general within 10 days. ~~The~~ If the fiscal note indicates a fiscal impact, the attorney general shall prepare a fiscal statement of no more than 50 words ~~if a fiscal note was prepared for the proposed ballot issue,~~ and the statement must be used on the petition and ballot if the measure issue is placed on the ballot.

(4) ~~The statement of purpose and the~~ ballot statements ~~of implication~~ must express the true and impartial explanation of the proposed ballot issue in plain, easily understood language and may not be arguments or written so as to create prejudice for or against the measure issue. ~~Statements of implication must be written so that a positive vote indicates support for the measure and a negative vote indicates opposition to the measure.~~

(5) ~~The~~ Unless altered by the court under 13-27-316, the statement of purpose, ~~unless altered by a court under 13-27-316,~~ is the petition title for the measure issue circulated by the petition and the ballot title if the measure issue is placed on the ballot.

(6) The statements of implication must be written so that a positive vote indicates support for the issue and a negative vote indicates opposition to the issue and must be placed beside the diagram provided for marking of the ballot in a manner similar to but not limited to the following example:

[]FOR extending the right to vote to persons 18 years of age

[]AGAINST extending the right to vote to persons 18 years of age

~~———— (7) If the petition is rejected as to form, the attorney general shall forward the comments to the secretary of state within 21 days after receipt of the petition~~

~~by the attorney general. If the petition is approved as to form, the attorney general shall forward the statement of purpose, the statements of implication, and the fiscal statement, if applicable, to the secretary of state within 21 days after receipt of the petition by the attorney general.~~

(7) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this part, "legal sufficiency" means the petition complies with statutory and constitutional requirements governing submission of the proposed issue to the electors. Review of the petition for legal sufficiency does not include consideration of the substantive legality of the issue if approved by the voters. The attorney general shall also determine if the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(8) (a) If the petition is approved as to form, within ~~Within~~ 30 days of the approval after receipt of the proposed issue from the secretary of state, the attorney general shall forward to the secretary of state the determination regarding an opinion as to the issue's legal sufficiency, as provided in 13-27-202.

(b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney general shall also forward to the secretary of state ballot statements prepared pursuant to this section and notice of whether the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled pursuant to 13-27-316 and the attorney general has prepared ballot statements under this section."

Section 15. Section 13-27-315, MCA, is amended to read:

"13-27-315. Statements by attorney general on issues referred by legislature.

~~(1) Upon receipt of a copy of a ballot form under 13-27-310(2) for an issue proposed referred by the legislature from the secretary of state pursuant to [section 12], the attorney general shall order a fiscal note as provided in 13-27-312(1) if the issue has an effect on the revenues, expenditures, or the fiscal liability of the state prepare and forward to the secretary of state, within 30 days, ballot statements as provided~~

~~in 13-27-312, except that the attorney general may not prepare statements of implication of a vote for or against a ballot issue if the statements have been provided by the legislature. At the same time the explanatory statement is prepared under subsection (2), the attorney general shall prepare a fiscal statement of no more than 50 words to be forwarded to the secretary of state at the same time as the explanatory statement.~~

~~———— (2) At the same time the attorney general, pursuant to 13-27-313, informs the secretary of state of the approval or rejection of a ballot form for an issue proposed by the legislature, the attorney general shall forward to the secretary of state a statement, not exceeding 100 words, expressing a true and impartial explanation of the purpose of the measure in plain, easily understood language. The statement may not be an argument and may not be written to create a prejudice for or against the issue. The statement prepared under this section is known as the attorney general's explanatory statement.~~

~~———— (3) If statements of the implication of a vote for or against a ballot issue have not been provided by the legislature, the attorney general shall prepare the statements. Requirements for statements of implication for ballot issues referred by the legislature are the same as those provided in 13-27-312 for other ballot issues. Statements of implication prepared by the attorney general must be returned to the secretary of state no later than the time specified for approval of the ballot form."~~

Section 16. Section 13-27-316, MCA, is amended to read:

"13-27-316. Court review of attorney general opinion or statements. (1) If the proponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ ballot statements formulated by the attorney general pursuant to 13-27-312 do not satisfy the requirements of 13-27-312, or believe that the attorney general was incorrect in determining that the petition was legally deficient, they may, within 10 days of the ~~secretary of state's or~~ attorney general's determination regarding legal sufficiency provided for in 13-27-202, file an ~~action in the district court in and for the county of Lewis and Clark~~ original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or modify the

attorney general's determination.

(2) If the opponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ ballot statements formulated by the attorney general pursuant to 13-27-312 do not satisfy the requirements of 13-27-312, or believe that the attorney general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the date of certification to the governor that the completed petition has been officially filed, file an ~~action in the district court in and for the county of Lewis and Clark~~ original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's ~~conclusion~~ determination and requesting the court to alter the statement or overrule the attorney general's determination concerning the legal sufficiency of the petition.

(3) (a) Notice must be served upon the secretary of state and upon the attorney general.

(b) If the proceeding requests modification of ballot statements, an action brought under this section must state how the attorney general's ballot statements do not satisfy the requirements of 13-27-312 and must propose alternate ballot statements that satisfy the requirements of 13-27-312.

(c) (i) Pursuant to Article IV, section 7(2), of the Montana constitution, an action brought pursuant to this section takes precedence over other cases and matters in the ~~district~~ supreme court. The court shall examine the proposed ~~measure~~ issue and the challenged statement or determination of the attorney general and shall as soon as possible render a decision and certify to the secretary of state a statement which the court determines will meet the requirements of 13-27-312 or an opinion as to the adequacy of the ballot statements or the correctness of the attorney general's determination.

(ii) If the court decides that the ballot statements do not meet the requirements of 13-27-312, it may order the attorney general to revise the statements immediately or certify to the secretary of state a statement that the court determines will meet the requirements of 13-27-312. A statement revised by the attorney general pursuant to the court's order or certified by the court must be placed on the petition for

circulation and on the official ballot.

(iii) If the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing submission of the issue to the electors, any petitions supporting the issue are void and the issue may not appear on the ballot.

A proponent of the ballot issue may resubmit a revised issue pursuant to 13-27-202, subject to the deadlines provided in this chapter.

(iv) If the court decides that the attorney general's legal deficiency determination is incorrect and that a proposed issue complies with statutory and constitutional requirements governing submission of the issue to the electors, the attorney general shall prepare ballot statements pursuant to 13-27-312 and forward the statements to the secretary of state as soon as possible.

~~—— (b) A statement certified by the court must be placed on the petition for circulation and on the official ballot.~~

~~—— (4) A copy of the petition in final form must be filed in the office of the secretary of state by the proponents.~~

~~—— (5) Any party may appeal the order of the district court to the Montana supreme court by filing a notice of appeal within 5 days of the date of the order of the district court.~~

(4) A petition for a proposed ballot issue may be circulated by a signature gatherer upon transmission of the sample petition form by the secretary of state pending review under this section. If, upon review, the attorney general or the supreme court revises the petition form or ballot statements, any petitions signed prior to the revision are void.

(5) An original proceeding in the supreme court under this section is the exclusive remedy for a challenge to the attorney general's ballot statements or legal sufficiency determination. A ballot issue may not be invalidated under this section after the secretary of state has certified the ballot under 13-12-201.

(6) This section does not limit the right to challenge a constitutional defect in the substance of an issue approved by a vote of the people."

NEW SECTION. **Section 17. Contest of ballot issue petitions.** (1) Any qualified elector may, within 30 days after the date on which the issue was certified to the governor, file an action in the district court in and for the county of Lewis and Clark contesting the certification of a ballot issue for illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(2) If a court finds that illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures probably affected the outcome of the petition process and certification, the secretary of state shall decertify the contested ballot issue.

Section 18. Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments advocating approval or rejection of the ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) The committee advocating approval of a legislative act referred to the people either by the legislature or by referendum petition or advocating approval of a constitutional amendment referred by the legislature must be composed of:

(a) one senator known to favor the referred ~~measure~~ ballot issue, appointed by the president of the senate;

(b) one representative known to favor the referred ~~measure~~ ballot issue, appointed by the speaker of the house of representatives; and

(c) one individual who need not be a member of the legislature, appointed by the first two members.

(3) (a) The committee advocating rejection of an act referred to the people or of a constitutional amendment proposed by the legislature must be composed of:

(i) one senator appointed by the president of the senate;

(ii) one representative appointed by the speaker of the house of representatives; and

(iii) one individual who need not be a member of the legislature, appointed by the first two members.

(b) Whenever possible, the members must be known to have opposed the issue.

(4) The following must be three-member committees and must be appointed by the person submitting the ~~petition~~ ballot issue to the secretary of state under the provisions of 13-27-202:

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition must be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member must be appointed by the first four members. If possible, members must be known to favor rejection of the issue.

(6) A person may not be required to serve on any committee under this section, and except for legislative appointments made by the president of the senate or by the speaker of the house of representatives, the person making an appointment must have written acceptance of appointment from the appointee. If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments."

Section 19. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Except as provided in subsection (2), appointments to committees advocating approval or rejection of an act referred to the people, a constitutional amendment proposed by the legislature, or a ballot ~~measure~~ issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week prior to the deadline for filing arguments on the ballot issue under 13-27-406.

(2) Appointments to committees advocating approval or rejection of a ballot ~~measure~~ issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week before the deadline for filing arguments on the ballot issue under 13-27-406. All persons responsible for appointing

members to the committee shall submit to the secretary of state the names and addresses of the appointees no later than the date set by this subsection. The submission must include the written acceptance of appointment from each appointee required by section 13-27-402(6). If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments.

(3) Within 5 days after receiving notice under subsection (2), but not later than 5 days after the deadline set for appointment of committee members, the secretary of state shall notify the appointees to a committee appointed pursuant to subsection (1) or (2) by certified mail, with return receipt requested, of the deadlines for submission of the committee's arguments."

Section 20. Section 13-27-501, MCA, is amended to read:

"13-27-501. Secretary of state to certify ballot form -- abbreviated ballot.

(1) The secretary of state shall furnish to the official of each county responsible for preparation of the ballots, at the same time as the election administrator certifies the names of the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) ~~Except as provided in subsection (4), the~~ The secretary of state shall list for each issue:

- (a) the number;
- (b) the method of placement on the ballot;
- (c) the title;
- (d) the attorney general's explanatory statement, if applicable;
- (e) the fiscal statement, if applicable; ~~and~~
- (f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot; and
- (g) a statement that the issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable.

(3) When required to do so, the secretary of state shall use for each ballot

issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

- (a) an act referred by the legislature;
- (b) an amendment to the constitution proposed by the legislature;
- (c) an act of the legislature referred by referendum petition; or
- (d) a law or constitutional amendment proposed by initiative petition.

~~----- (4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that the county election administrator be furnished an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(c), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place."~~

Section 21. Section 13-35-207, MCA, is amended to read:

"13-35-207. Deceptive election practices. A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

- (1) falsely represents ~~his~~ the person's name or other information required upon ~~his~~ the person's registry card and causes registration with the card;
- (2) signs a registry card knowingly witnessing any false or misleading statement;
- (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- (4) falsely makes a declaration or certificate of nomination;
- (5) files or receives for filing a declaration or certificate of nomination

knowing that all or part of the declaration or certificate is false;

(6) forges or falsely makes the official endorsement of a ballot;

(7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;

(8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

(9) signs a name other than ~~his~~ the person's own to a petition, signs more than once for the same ~~measure~~ ballot issue, or signs a petition while not being a qualified elector of the state; or

(10) makes a false oath or affidavit where an oath or affidavit is required by law."

Section 22. Section 13-37-210, MCA, is amended to read:

"13-37-210. Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot ~~measure~~ issue by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot ~~measure~~ issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128."

Section 23. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before the election and the day of the election;

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ~~measure~~ ballot issue is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose

a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are incidental political committees shall report their politically related activities in accordance with this chapter.

(7) All reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

Section 24. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to subsections (1) through (5) of 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by ~~approval~~ transmission of the form of the petition to the proponent of the ballot issue or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

NEW SECTION. **Section 25. Repealer.** Sections 13-27-310 and 13-27-313, MCA, are repealed.

NEW SECTION. **Section 26. Codification instruction.** (1) [Section 12] is intended to be codified as an integral part of Title 13, chapter 27, part 2, and the provisions of Title 13, chapter 27, part 2, apply to [section 12].

(2) [Section 17] is intended to be codified as an integral part of Title 13, chapter 27, part 3, and the provisions of Title 13, chapter 27, part 3, apply to [section 17].

- END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note – 2009 Biennium

Bill # SB0096

Title: Generally revise initiative and referendum process

Primary Sponsor: Williams, C.

Status: As Introduced

- ☐ Significant Local Gov Impact ☐ Include in HB 2 ☐ Technical Concerns
☐ Included in the Executive Budget ☐ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

Description of Fiscal Impact:

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL ANALYSIS

Assumptions:

1. This bill has no fiscal impact to the state.

Sponsor's Initials

Date

Budget Director's Initials

Date

MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN CAROLYN SQUIRES**, on February 7, 2007
at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Vicki Cocchiarella (D)
Sen. Jeff Essmann (R)
Sen. Steven Gallus (D)
Sen. Larry Jent (D)
Sen. Rick Laible (R)
Sen. Jesse Laslovich (D)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Lois O'Connor, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 96, 2/2/2007; SB 91, 2/2/2007;
SB 333, 2/2/2007; SB 317, 2/2/2007;
SB 340, 2/2/2007
Executive Action: SB 219

00:00:04

HEARING ON SB 96

Opening Statement by Sponsor:

00:03:45 SEN. CAROL WILLIAMS (D), SD 46, opened the hearing on SB 96, Generally revise initiative and referendum process.

EXHIBIT(sts27a01)

Proponents' Testimony:

00:08:56 The Honorable Mike McGrath, Attorney General

EXHIBIT(sts27a02)

00:18:38 The Honorable Brad Johnson, Secretary of State

00:20:46 John Motl, Common Cause of Montana

00:23:52 Terry Minow, MEA-MFT

00:25:07 Joy Bruck, AARP Montana

EXHIBIT(sts27a03)

EXHIBIT(sts27a04)

00:26:46 Rhonda Wiggers, Invironomics

00:30:24 Brad Griffin, Montana Retail Association

00:31:13 Jeff Barber, Montana Environmental Information Center (MEIC)

EXHIBIT(sts27a05)

00:34:23 Linda Gryczan, League of Women Voters

00:35:14 Eric Stern, Office of The Honorable Governor Brian Schweitzer

00:36:16 Derf Johnson, MontPERG

00:37:21 Mark Aagenus, Montana Trout Unlimited

Opponents' Testimony:

00:38:15 Carole Mackin

EXHIBIT(sts27a06)

00:43:38 Travis Butcher

00:50:35 William Biernat representing Becky Stockton

EXHIBIT(sts27a07)

00:53:41 Mike Fellows, President, Montana Libertarian Party

Informational Testimony:

00:54:53 Robert Throssell, Montana Association of Clerk and
Recorders

Questions from Committee Members and Responses:

00:56:29 Sen. Jim Shockley to Attorney General Mike McGrath

01:00:08 Sen. Larry Jent to Attorney General Mike McGrath

01:02:11 Sen. Rick Laible to Attorney General Mike McGrath

01:04:56 Sen. Joe Balyeat to Attorney General Mike McGrath

01:07:22 Sen. Balyeat to Mr. Butcher

01:09:52 Sen. Essmann to Mr. Motl, Common Cause of Montana

Closing by Sponsor:

01:12:47 Sen. Williams

HEARING ON SB 91

Opening Statement by Sponsor:

01:16:22 **SEN. CAROL WILLIAMS (D), SD 46**, opened the hearing on
SB 91, Regulate constituent accounts.

EXHIBIT(sts27a08)

Proponents' Testimony:

01:21:20 John Motl, Common Cause of Montana

STATE ADMINISTRATION

Exhibit No. 7

Amendments to Senate Bill No. 96 Date 2-7-07
1st Reading Copy

Bill No. SB-96

Requested by Senator Carol Williams

For the Senate State Administration Committee

Prepared by Greg Petesch
February 6, 2007 (5:13pm)

#1
1. Page 2, line 7.

Following: "(3)"

Insert: "(a)"

2. Page 2, line 9.

Following: line 8

#2
Insert: "(b)(i) In an original proceeding under subsection

(3)(a), the petitioner and the attorney general shall certify the absence of factual issues or shall stipulate to and file any factual record necessary to the supreme court's consideration of the attorney general ballot statements or legal sufficiency.

(ii) If the parties to an original proceeding under subsection (3)(a) fail to make the certification or stipulation required by subsection (3)(b)(i), the supreme court shall refer the proceeding to the district court in and for the county of Lewis and Clark for development of a factual record and an order that addresses the issues provided in 13-27-316(3). Any party may appeal the order of the district court to the supreme court by filing a notice of appeal within 5 days of the date of the order of the district court."

- END -

DEPARTMENT OF JUSTICE
SB 96: Improving the Ballot Measure Process

Exhibit No. 2
Date 2-7-07
Bill No. SB-96

Background

The Montana Constitution guarantees the people's right to propose and vote on ballot issues. Recent election cycles, however, have been marked by litigation and voter confusion.

Since 1972, Montana citizens have proposed 266 ballot issues, including:

- 43 constitutional amendments
- 98 constitutional initiatives
- 82 initiatives
- 49 referenda

These ballot issues have been challenged in court 30 times.

In 2006 alone, there were six challenges to seven ballot measures.

- Not a single ballot measure went unchallenged. In one case, the constitutional sufficiency of two measures was challenged, while other challenges involved the petition process and the wording of the ballot statements.
- A legal challenge to three measures was not resolved before ballots were printed and voting machines were programmed. Ultimately, the measures appeared on voters' ballots and any votes cast were not counted.
- One challenge – to CI 151, a measure to increase the state's minimum wage – was still pending before the Montana Supreme Court more than six weeks after the November election.

SB 96 seeks to streamline and simplify each step of the ballot measure process.

Signature Gathering

Under existing law, signature gatherers can swear they "gathered" or "assisted in gathering" signatures to qualify measures for the ballot. Under SB 96, gatherers could no longer swear to "assisting" in gathering signatures.

- SB 96 would also prohibit ballot measure supporters from paying signature gatherers per signature.
- Signature gatherers would have to be Montana residents.

Ballots

The statement of purpose is carefully crafted to clearly explain the intent of the initiative or referenda. In many counties, however, the statement of purpose does not appear on the ballots on which Montanans cast their votes. SB 96 would eliminate "abbreviated" ballots and place the statement of purpose of each measure on the ballots voters use.

It would also provide for notice of conflicting ballot issues on the voters' ballots.

--over--

Timelines

There are a number of confusing timelines in the ballot measure process.

SB 96 would condense the timeline for preparation of ballot statements and opinions of legal sufficiency to one 30-day period. It would lengthen the time for fiscal note preparation from six days to 10 days.

And SB 96 would ensure that the process begins and ends in the Secretary of State's Office. Under existing law, the text of a ballot measure must be submitted to legislative services. Under this bill, the text goes to legislative services only after submission to the Secretary of State.

Legal Review

Under SB 96, any challenge to the statement of purpose and legal sufficiency opinion provided by the attorney general would originate in the Montana Supreme Court. In the event the court revises a ballot statement, signatures gathered on petitions prior to the revision would be void.

Challenges to certification – due to illegally gathered signatures or a fraudulent canvass, for example – would have to be filed in Lewis & Clark County within 30 days of certification.

Summary

The ballot measure process is an important one, and Montana voters should have faith in every step of it. The changes proposed by SB 96 will help lessen voter confusion and simplify the process.



Story available at <http://www.billingsgazette.net/articles/2006/12/21/opinion/gazette/50-gazetteopinion.txt>

Published on Thursday, December 21, 2006.
Last modified on 12/21/2006 at 12:44 am

Gazette Opinion: McGrath, Johnson show initiative in initiative reform

Montana voters endured so many affronts to the state initiative process this year that they may have questioned the integrity of this 100-year-old process of direct legislation. Montana's initiative and referendum laws should be reformed to protect this cherished right of the people to act on important issues when the Legislature doesn't or can't.

Legislation being introduced in the 2007 session by Sen. Carol Williams, D-Missoula, and Rep. Alan Olson, R-Roundup, addresses an urgent need. Senate Bill 96, drafted at Williams' request, would fix key problems that came to light during the 2006 campaign, when three initiatives were promoted by an organization backed by out-of-state funders whose identities weren't disclosed publicly. Paid professional signature-gatherers received big paychecks for collecting Montana voters' signatures. A lawsuit alleging fraud and other violations in the signature-gathering process for all three proposals and a second lawsuit challenging the text of one initiative were heard in district courts and the Montana Supreme Court.

After the Supreme Court invalidated those three proposals, lawsuits were filed to invalidate two other initiatives in the final weeks before the election. One lawsuit remains pending before the Supreme Court.

Attorney General Mike McGrath, a Democrat, and Secretary of State Brad Johnson, a Republican, jointly endorsed reform of the initiative process. The support of McGrath, Johnson, Williams and Olson confirms that the integrity of initiative and referendum isn't a partisan issue. It's a concern for all Montanans who value the rule of law and justice.

The proposed legislation would:

- Streamline the process of approval for initiative language by having it start and end in the Secretary of State Office. Legislative Services and the Attorney General's Office would still have to review language after it was submitted to the Secretary of State Office.
- Give the Supreme Court original jurisdiction to hear challenges to the petition statement or challenges to the attorney general's determination of legal sufficiency. (This would speed up the process that now requires all actions to start in District Court.)
- Require that signature-gatherers be Montana residents.
- Ban paying gatherers on a per-signature basis.
- Require signature-gatherers to swear that they "gathered signatures," eliminating the words

"or assisted in gathering" from the law to make the requirement clear.

- Require that the same 100-word statement of intent that is on petitions also be on the ballot.

The aim is to simplify and protect the initiative and referendum process for the benefit of Montanans. The Democrats and Republicans who have joined forces to draft this bill deserve the strong support of both parties and all 150 legislators. After the contentious 2006 campaign season, initiative reform is something everybody can agree Montana needs.

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Initiative fix certainly needed

By the Helena IR - 12/20/06

Few would deny that Montana's system for handling citizen initiatives deserved an "F" for fouling up during the last election campaign. Six different lawsuits alleging fraud were filed against seven initiatives on the ballot. Three of the initiatives were thrown out, and another, the minimum-wage increase, still is tied up in the state Supreme Court.

Now there's a bipartisan bill in the works to make repairs. Secretary of State Brad Johnson, a Republican, and Attorney General Mike McGrath, a Democrat, said Monday the proposed legislation would simplify the process.

One part of the lengthy bill would require that signature gathers be Montana residents, and would ban payments per signature. The measures that were tossed by the courts this year were found to have been tainted with improper conduct by gatherers from out of state who no longer are around to answer questions.

The bill would do much else, including requiring that the full, 100-word explanation of each measure be printed on ballots, and providing that legal disputes over those explanations would go directly to the high court to save time.

We think the effort is worthwhile, although it seems likely that discrimination against out-of-state workers could be open to challenge. In addition, the bill fails to address the need for better transparency about the source of the money behind some ballot measures. For instance, it was widely believed that the radical Libertarian measures rejected by the courts were bankrolled by New York investor Howard Rich, but supporters of the initiatives didn't have to say.

Nor does the bill speak to a tougher problem — deceptive characterizations of an initiative. For instance, one of the rejected initiatives this year claimed to be about preventing abuse of eminent domain, when the thrust of the measure actually was an all-out attack on land-use regulations.

Nonetheless, the bill proposed by Johnson and McGrath is a good start toward improving an initiative process that's too important not to fix.



STATE ADMINISTRATION

Exhibit No. 3
Date 2-7-07
Bill No. SB-96

February 7, 2007

TO: Chairwoman Squires and Members of the Senate State Administration Committee

FROM: Joy Bruck, Volunteer Advocate, AARP Montana

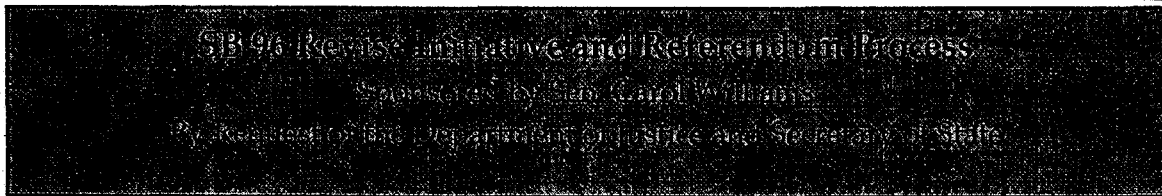
RE: Support of SB 96, Revise initiative and referendum process

Madame Chair and members of the committee, my name is Joy Bruck, volunteer advocate for AARP Montana. AARP Montana is strictly non-partisan and does not endorse, support or oppose specific candidates. However, we do take part in ballot issue campaigns. We believe strongly in grassroots voter movements and education. We know that our members vote and actively participate in every aspect of elections and issue campaigns. That is why we strongly support all provisions of SB 96 and thank the Attorney General, the Secretary of State and the sponsor for bringing this bill.

Senate Bill 96 puts into place necessary protections and streamlines regulations so the initiative and referendum process is safeguarded from abuse. First, we solidly support requiring signature gatherers to be Montana residents that are restricted from being paid per signature. Montana is not alone in recognizing the temptation for fraud that results in a paid by signature system. Especially by signature gatherers who have no ties to Montana and will not have to live under the new laws they are helping to create.

Second, we support the Attorney General and Secretary of State's proposal to streamline the system and restructure timelines for maximum efficiency and input. We also support the move to uniformity of ballot issue language that appears on each voter's ballot.

Finally, because the initiative and referendum process is the only way to amend our Constitution, we ask that you listen to supporters of these proposals who represent a wide array of constituency groups that are asking for your support. Again, we hope you give your support to Senate Bill 96.



WHAT DOES THE BILL DO?

- Gives the Montana Supreme Court original jurisdiction to review ballot statements prepared by the Attorney General and to determine the legal sufficiency of ballot issues. *section 1*
- Requires signature gatherers for ballot issues to be Montana residents. *section 5*
- Prohibits signature gatherers for ballot issues from being paid by the signature. *section 5*
- Prohibits preamble and argumentative language from ballot issue language. *section 6*
- Removes "assisted" in gathering from affidavit language that is signed by signature gatherers. *section 13*
- Lengthens the time given to the Budget Director to prepare fiscal notes from 6 to 10 days for ballot issues that affect revenue, expenditures or fiscal liability of the state. *section 14*
- Requires the Attorney General to determine if a ballot issue will conflict with other ballot issues and notice the Secretary of State if a conflict exists. *section 14*
Requires each county to notice conflicting ballot issues on ballots. *section 20*
- Clarifies that signatures gathered on sample petitions that are later revised by the Attorney General or the courts are void and cannot be counted toward the final signature count. *section 16*
- Requires that the Supreme Court make a final determination on legal sufficiency before a ballot issue is certified by the Secretary of State for printing on the ballot. *section 16*
- Requires that every county's ballot contain identical language for each ballot issue. *section 21*

For more information, contact Pam Bucy, Department of Justice, 444-5790

Page 8, line 14

Rewrite (3) so that it says the following:

(3) A petition may be made available via the internet or by mail. The form of such petitions may contain no more than two signature lines and must include a statement that the petition language and format may not be modified. Signatures gathered via internet or mail petitions may be submitted for verification. The signatures on such petitions must be submitted with an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 17-27-302(2).

Page 14, line 24

Insert a new (2) that reads:

(2) An affidavit, in substantially the following form, must be attached to petitions that have been gathered from the mail or the internet:

I, (name of person signing the affidavit), swear that the signatures on the petition(s) to which this affidavit is attached are genuine to the best of my knowledge, that a full copy of the petition was made available to the signers.

[all the various signature, date and notary lines here]

Rationale: Legislative services has told me the language in the current affidavit appearing in 13-27-302 is not appropriate for mail or internet petitions. Thus new language is required. The new language proposed for 13-27-201(3) allows for internet or mail petitions. It limits the signatures to two per petition, the idea being it would be more difficult and laborious to use these types of petitions in any kind of fraudulent manner.

A new affidavit is required to attest to the signatures gathered this way. I'm open to suggestions on how to make the affidavit more onerous to the affiant but I just don't think there is much to which one could swear for these types of petitions.

Exhibit No. 10Date 2-7-072-7-2007 Bill No. SB-96
406-227-5237**CAROLE MACKIN**
4286 Hart Lane

Comments on SB 96

Two groups of lawmakers make laws in Montana—the legislature and the voters. The laws that come from either group should achieve two goals:

New laws should fit seamlessly into the existing code.

All laws should be interpreted and implemented as the lawmakers intend.

Montana's initiative process benefits from the assistance the legislature provides from its own staff, the Secretary of State and the Attorney General. In large part this assures that initiative laws will fit seamlessly into the existing code.

But SB 96 turns assistance into interference. For instance, Section 7 on page 9, line 30 takes the Secretary of State out of the process of approving or rejecting a petition. The Secretary of State is the only official involved in the initiative process as outlined in the Montana Constitution. Now the law gives the Secretary of State 28 days to review the form. But in SB 96 the Attorney General has the duties and deadlines. The Secretary of State is simply told to act "immediately." So when exactly will the sponsor take delivery of an approved petition form?

I am also concerned about Section 6 on page 8 line 12. The following has been added: "and may not contain a preamble or argumentative language." Preambles basically do two things. They can state policy and instruct executive departments on how to make rules. They can send a clear message to the courts about the intent of the lawmakers.

For example, LC 753 is ready for first reading. This bill has a preamble and I believe it contains argumentative language: "The appearance of signature gatherers within the polling place confuses voters." I oppose LC 753 and if it becomes law I may wish to run a referendum to repeal it. How will the Attorney General handle the petition? Will he reject it because it has a preamble that contains argumentative language?

SB 96 does little to improve the initiative process. Instead, it muddles things and interferes with a viable process. The Attorney General's solutions are worse than the problems he's trying to solve. I ask the committee to table SB 96.

Exhibit No. 7Date 2-7-07Bill No. SB-96

Madame Chair and members of the committee:

My name is Becky Stockton and I reside in Helena, Montana. I am against SB 96 as it is written. I'm sorry that I am not present for this hearing but our son who is a Marine is coming home from deployment from Iraq and we are presently in North Carolina for his welcoming home ceremony.

There are several items I want to address in this proposed bill. First, I gave this committee a large set of documents on SB 80 four weeks ago that also relate to SB 96 and I would like you to refer to them; I new I would not be present for this hearing and that is why I presented the information to you during SB 80.

On page 7, Section 5, 2a I would like to ask how are we going to determine how long an individual has to live in Montana in order to become a resident so that the petition gatherer can gather signatures? I ask this question because I am very aware that a Great Falls judge threw out more than 140,000 signatures by Montana legal voters who wanted their signatures counted on those three initiatives. The judge justified this because he was lead to believe that the addresses were not valid on the affidavits. I find it amazing that not one of those addresses where tested with a simple certified letter to determine their validity.

Please refer to my previous testimony and copies of affidavits on 7 signature gatherers on I - 153 (the Governors Initiative to restrict Legislators from lobbying within a 2 year period after retiring from office that was carried by a group called Montanans for Clean Government) were not only from out of state, but were also hired to get John Tester elected. I did an internet search on all the signature gatherers on this initiative and found that all of them resided in Montana except for these seven petition signature gatherers. Their names are Carrie Glenn, Annalee Gulley, Brandon Pinette, Jonathan Shapiro, Erika Starr, Erin Taylor-George and Neil Yoke. They all have documented on their affidavits that they reside in Montana but when doing this research I discovered that their legal resident address was fraudulent. I first located this web site; www.opensecrets.org that had all the signature gatherers names and the amount of payment they received each month during the petition gathering and during Jon Tester's campaign. This web site gleams the information off of the Federal Election Commission web site. I then proceeded to FEC web site and found all the signature gatherers addresses and their disbursement for services. This is where I discovered that these seven petition gatherers had permanent addresses outside the state of Montana. This is all documented in the exhibits I presented to you on SB 80. One of the seven petition gatherers did receive his disbursement check at his affidavit address but upon my internet research I found his blog which proved that he is not a legal Montana resident also. The blog is another exhibit I entered into the record on SB 80. Carrie Glenn was the first signature petition gatherer who moved here in March and the initiative was certified to start gathering signatures on April 2, 2006. Since Carrie arrived sometime in March, does one month prior to gathering signatures justify her as a resident? There is no statue in this bill that requires how long an individual needs to reside in Montana to be able to require residency to gather signatures for a ballot initiative. I also think that having a restriction on who

gathers signatures is a freedom of speech issue. I remember back on one election that there was a big fuss about a certain political party having their campaign materials printed out of state instead of in state because it was cheaper. After that election, no one entered a bill to mandate candidates to have their campaign materials printed in our state. This is the same principle being applied here. This bill is violating the person or groups who bring forward the initiative's freedom of speech. Employers hire people from other states, even other countries because they can not find qualified people within the state to do the work. Out of state signature gatherers have no vested interest in passing the initiatives, they just are hired to do a job and they are there to perform that job. And if the person who is the heading up the initiative wants to encourage that individual to work harder by paying by the # of signatures, then that individual shall have the right to do that.

In this same section, on 2 b, which is on page 7, line 27, I have grave concerns with wage fixing and having the state government put a cap on wages. I believe that this is highly unconstitutional and it is very dangerous. I have strong doubts that this would survive federal constitutional challenges and I also personally think that it is a violation of our free speech. Individuals work harder if paid by the number of signatures or by the number of sales they make. Take for example a clothing retailer. They pay their employees extra money according to how many items they sale, the same goes for an insurance rep., car salesmen, large machinery implement companies and many other reputable professions. When you start price fixing for one area it leads to doing that to other professions in fact the setting of the minimum wage is not constitutionally founded in either constitution so this would be illegal and shouldn't stand up in a court of law. The job market in this country and in our state sets the minimum wage and not the government or the voters of Montana.

On page 11, line 10 through 12; who should be doing a thorough investigation of this? Has anyone been prosecuted for doing as such? The reason I mention this we discovered in our research that one of the signature gatherers for I - 153 signed the petition, not once but twice; knowing full well that she was not a permanent resident of the state of Montana. Thankfully for us, the county election administrator threw out both of her signatures because she was not a registered voter.

Another item to note is the next subsection (e) on line 13 through 14 which will make a legal resident of Montana signature not count because they changed their address and did not know that they needed to update their registration election voter card prior to signing a petition initiative. They also need to do this in person and that the election administrator should send a certified letter to that address to confirm that it is their permanent address. Since I am a chief election judge in Lewis and Clark County, the most common change is the voter's addresses. The registered voter changes it during the election and not prior to signing a ballot issue, so a lot of signatures could be challenged on the ballot initiative because people have not changed their addresses prior to signing the petition.

Also in this same section, line 17, where it mentions "the signer may provide the signer's post office address." In our research we discovered one petition had approximately 20 signatures with the same P.O. address and the election administrator accepted all of them. I assumed it probably was a nursing or retirement home with that many voters having mail delivered to the same P.O. Box. I see this as a potential way for fraud, so I would suggest putting into statute that each voter needs to have a permanent address to verify their residency. According to the Patriot Act, the government has assigned permanent addresses to everyone, so these voters have an physical address available and they should use them. This would prevent fraud.

On page 14, Section 13 the words "or assisted in gathering" needs to be eliminated on the affidavit so that there is no confusion as to who actually collected the signatures. It needs to match what the district court decision decided which was upheld by the Montana Supreme Court.

On page 18, line 29, subsection 4, this new section scares me and surely would be abused by the political parties. This could be made as a partisan attempt as to what initiative, referendum or constitutional issue would make the ballot. The attorney general could continually revise the petition form, so that each time the petition gatherers who have already started gathering signatures, their signatures would be thrown out each time so that the process would be severely delayed or they could not collect enough signatures before the deadline for the initiative to qualify for the ballot.

A new section that I would like to put into statute is if an initiative has been challenged and a judge makes law on the bench or redefines a word; then all initiatives that have been certified for the ballot needs to be reviewed to see whether or not they are also in violation of the same fraudulent procedures. As in this case, the research my daughter and I did, both on I - 151 and I - 153 should have been thrown off the ballot too. One initiative violated the "assisted in gathering" section and the other had fraudulently signed their affidavits. This entered into statute would make the process applied fairly to all, if the law changes in the middle of the ballot initiative process.

In summary,

- 1. If fraud is found prosecute the individual. Don't just talk about.**
- 2. Eliminate the words "assisted in gathering", so that each individual gathering signatures is responsible "to and for" the individual petition signers.**
- 3. It needs to put into statute the definition of address for the signature on affidavits attesting to who gathered the signatures, as "the place U.S. certified mail can be delivered".**
- 4. The state should not start wage fixing, capping private citizens income is always bad policy. These limitations are subject to federal court challenges, do to the limitations on first amendment free speech rights. This is very unlikely to stand up in federal court. We need transparency in reporting instead.**
- 5. Clearly define what residency is for the signature gatherer.**
- 6. All ballot issues need to be handled without political bias.**

I am not in support of SB 96 as written. Please do not consider this bill.

Becky Stockton
1430 Boston Road
Helena, Mt. 59602

MONTANA SENATE
2007 LEGISLATURE

STATE ADMINISTRATION

ROLL CALL

DATE 2-7-07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOE BALLYEAT (R)	✓		
SEN. VICKI COCCHIARELLA (D)	✓		
SEN. JEFF ESSMANN (R)	✓		
SEN. STEVE GALLUS (D)	✓		
SEN. LARRY JENT (D)	✓		
SEN. RICK LIABLE (R)	✓		
SEN. JESSE LASLOVICH (D)	✓		
SEN. DAVE LEWIS (D)	✓		
SEN. JIM SHOCKLEY (R)	✓		
SEN. JOE TROPILA (D)	✓		
SEN. CAROLYN SQUIRES (D) CHAIR	✓		
DAVE BOHYER, LSD	✓		
CAROL ANDERSEN , SECRETARY	✓		

James O'Connor

**MONTANA STATE SENATE
2007 LEGISLATURE**

STATE ADMINISTRATION

VISITOR REGISTER

DATE February 7, 2007

BILLS BEING HEARD TODAY SB-91; SB-96; SB-340;
SB-333; SB-317

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
CAROLE MACKIN	227-5237	MYSELF	SB 96		X
Top Bruck	495-0647	AARP MONTANA	SB 96	✓	
"	"	"	SB 333	✓	
Duane Winslow	256-2742	Yellowstone Count	SB 96+333		✓
ROBERT THRESELL	459-6865	MT Assoc Clock & Per	SB 96-333	96 info	333
Debbie Mart	454-10803	Cascade County	SB 333		✓
CeCe Parker	447-8338	Lewis + Clark Co.	SB 333		✓
Marilyn Bracken	447-8336	L + C Co	SB 333		✓
Paul & De Hart	447-8334	L + C Co	SB 333		✓
Vickie Zier	258-3234	Missoula Co	SB 96+333	✓ 96	✓ 333
Terry Minow	442-4250	MEA - MFT	SB 96	X	
Brad Griffin	855-5939	MT Rental Assoc	SB 96	X	
Amt	442-3261	in use	96	X	
Amt	442-3261	in use	91	X	
E Andrews	459-1377	Common Cause - MT	91	Y	
E Andrews	459-1377	Common Cause - MT	96	X	
A JOHNSON	444-2026	AG	SR	96	
Brad Johnson	444-2807	SCS	96	X	
Jasumiller	442-1708	AFL-CIO	96	X	

Eric Stern 444-4521 governor's office 96 X

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Randa Wiggins 899-2059 ENVIRONMENTAL 96 K
mile fellows MCLP

96

**MONTANA STATE SENATE
2007 LEGISLATURE**

STATE ADMINISTRATION

VISITOR REGISTER

DATE 2/7/07

BILLS BEING HEARD TODAY SB 91, 96, 340, 333, 317

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Charlie Bang	449-4075	MACDS	SB 96	X	
Trevi's Butler	462-8800	MACDS	SB 96		X
William Biernat	452-2106	SECF	SB 96		X
Mark Simonich	444-5372	Secretary of State	SB 333		X
Janet Ellis	443-3949	MT Audubon	SB 96	X	
Jeff Barber	443-2520	MEIC	SB 96	X	
Jeff Barber	443-2520	MEIC	SB 340	Info	
Gail Abercrombie	459-4241	HT Contractors MT Petroleum	SB 340	X	
Shannon Aycock		HTD 16	333	✓	
Don Allen	443-5544	LOTEA	SB 340	✓	
Beth Breuninger	449-2344	MT Advocacy Program	333	✓	
Jay Erickson	459-3750	Montana Land Reliance	317	✓	
Todd O'Hair	442-1894	RTA	SB 340	✓	
Glean Marx	442-1689	MT Am. Land Inst	SR 317	✓	
Randy Wilks	841-252	DEPT. OF REVENUE	SB 317	INFO	
Angus Maciver	442-722	LAD	317		
Bud Clinch	442-6225	MCC	340	✓	
Jon Beunior	697-0568	MT Chamber	340	✓	
GARY FORRESTER	208-8290	FIDELITY EXPLORATION	340	✓	
Dave Galt	442-7552	MPA	340	✓	1

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN CAROLYN SQUIRES**, on February 19, 2007
at 3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Carolyn Squires, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Vicki Cocchiarella (D)
Sen. Jeff Essmann (R)
Sen. Steven Gallus (D)
Sen. Larry Jent (D)
Sen. Rick Laible (R)
Sen. Jesse Laslovich (D)
Sen. Dave Lewis (R)
Sen. Jim Shockley (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Branch
Lois O'Connor, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 443, 2/9/2007; SB 172, 2/9/2007;
SB 459, 2/9/2007
Executive Action: SB 443, SB 172, SB 459, SB 91, SB
310, SB 96, SB 247, SB 333, SR 3,
SR 5

EXECUTIVE ACTION ON SB 96

01:12:21 **Motion:** SEN. SQUIRES moved that SB 96 DO PASS.

01:12:32 **Motion:** SEN. ESSMANN moved to amend SB 96 with amendment #SB009603.ABD.

EXHIBIT(sts37a02)

Discussion:

01:16:10 Sen. Squires to Sen. Essmann

01:16:33 Sen. Balyeat to Sen. Essmann

01:18:00 Sen. Shockley

01:18:26 Sen. Lewis, Pam Bucy, Montana Department of Justice (DOJ)

01:19:25 **Vote:** Motion that #SB009603.ABD be approved carried 7-4 by voice vote with SEN. BALYEAT, SEN. COCCHIARELLA, and SEN. JENT voting no. SEN. GALLUS voted nay by proxy.

01:21:21 **Motion/Vote:** SEN. LAIBLE moved to further amend SB 96 with amendment #SB009602.ABD. Motion carried unanimously by voice vote. SEN. GALLUS voted aye by proxy.

EXHIBIT(sts37a03)

01:22:31 **Motion:** SEN. SQUIRES moved to further amend SB 96 with amendment #SB009604.ADB.

EXHIBIT(sts37a04)

Discussion:

01:23:21 Mr. Bohyer, LSD

01:23:55 Sen. Laslovich

01:24:45 Sen. Laible

01:24:55 Sen. Squires to Ms. Bucy, DOJ

01:26:01 **Motion/Vote:** SEN. SHOCKLEY moved that #SB009604.ADB BE TABLED. Motion carried 8-3 by voice vote with SEN.

BALYEAT, SEN. ESSMANN, and SEN. LEWIS voting no. SEN. GALLUS voted aye by proxy.

Discussion:

01:27:53 Sen. Essmann

01:29:39 Mr. Bohyer, LSD

01:29:49 Motion: SEN. COCCHIARELLA moved to further amend SB 96 with amendment #SB009602.AGP.

EXHIBIT(sts37a05)

Discussion:

01:30:06 Ms. Bucy, DOJ

01:30:44 Vote: Motion that #SB009602.AGP DO PASS carried unanimously by voice vote. SEN. GALLUS voted aye by proxy.

01:31:01 Motion: SEN. SHOCKLEY moved that SB 96 DO PASS AS AMENDED.

Discussion:

01:31:27 Sen. Balyeat

01:33:50 Vote: Motion that SB 96 DO PASS AS AMENDED carried unanimously by voice vote. SEN. GALLUS voted aye by proxy.

EXECUTIVE ACTION ON SB 247

01:34:34 Motion: SEN. SQUIRES moved that SB 247 DO PASS.

Discussion:

01:34:55 Mr. Bohyer, LSD

01:35:15 Motion/Vote: SEN. SHOCKLEY moved to amend SB 247 with amendment #SB024701.ASH. Motion carried unanimously by voice vote.

EXHIBIT(sts37a06)

MONTANA SENATE
2007 LEGISLATURE

STATE ADMINISTRATION

ROLL CALL

DATE 2-19-07

NAMES	PRESENT	ABSENT	EXCUSED
SEN. JOE BALLYEAT (R)	✓		
SEN. VICKI COCCHIARELLA (D)	✓		
SEN. JEFF ESSMANN (R)	✓		
SEN. STEVE GALLUS (D)	✓		
SEN. LARRY JENT (D)	✓		
SEN. RICK LIABLE (R)	✓		
SEN. JESSE LASLOVICH (D)	✓		
SEN. DAVE LEWIS (D)	✓		
SEN. JIM SHOCKLEY (R)	✓		
SEN. JOE TROPILA (D)	✓		
SEN. CAROLYN SQUIRES (D) CHAIR	✓		
DAVE BOHYER, LSD	✓		
CAROL ANDERSEN, SECRETARY	✓		



SENATE STANDING COMMITTEE REPORT

February 20, 2007
Page 1 of 2

Mr. President:

We, your committee on State Administration recommend that Senate Bill 96 (first reading copy -- white) do pass as amended.

Signed: _____

Carolyn Squires
Senator Carolyn Squires, Chair

And, that such amendments read:

1. Title, line 15.

Following: "SIGNATURES;"

Insert: "ALLOWING AN INDIVIDUAL TO SIGN AND SUBMIT A PETITION AND AN AFFIDAVIT ON THE INDIVIDUAL'S OWN BEHALF ONLY;"

2. Page 2, line 7.

Following: "(3)"

Insert: "(a)"

3. Page 2, line 9.

Following: line 8

Insert: "(b) (i) In an original proceeding under subsection (3) (a), the petitioner and the attorney general shall certify the absence of factual issues or shall stipulate to and file any factual record necessary to the supreme court's consideration of the attorney general ballot statements or legal sufficiency.

(ii) If the parties to an original proceeding under subsection (3) (a) fail to make the certification or stipulation required by subsection (3) (b) (i), the supreme court shall refer the proceeding to the district court in and for the county of Lewis and Clark for development of a factual record and an order that addresses the issues provided in 13-27-316(3). Any party may appeal the order of the district court to the supreme court by filing a notice of appeal within 5 days of the date of the order of the district court."

4. Page 14, line 6.

Following: "signatures."

Committee Vote:

Yes 11, No 0

Fiscal Note Required — *Kf*

381224SC.ssc

Insert: "(1)"

Strike: "An"

Insert: "Except as provided in subsection (2), an"

5. Page 14.

Following: line 23

Insert: "(2) (a) An individual may directly submit the individual's own signature by submitting an affidavit, in substantially the form provided in this subsection (2)(a). The affidavit must appear on the petition signed by the individual or be attached to the sheet submitted to the county official.

I swear that I, the undersigned, have signed the petition to which this affidavit is attached, that I am a Montana elector who is registered at the address listed below, and that I knew the contents of the petition before signing the petition.

(Signature of signatory on petition)

(Date on which signatory signed the petition)

(Address of signatory)

(b) An individual submitting a petition and affidavit under this subsection (2) may submit the petition and affidavit in person at the office of the county official or by United States mail."

- END -

Exhibit No. 2Amendments to Senate Bill No. 96
1st Reading CopyDate 2-19-07Bill No. SB-96

Requested by Senator Jeff Essmann

For the Senate State Administration Committee

Prepared by Dave Bohyer
February 9, 2007 (2:24pm)

1. Title, line 15.

Following: "SIGNATURES;"**Insert:** "ALLOWING AN INDIVIDUAL TO SIGN AND SUBMIT A PETITION AND
AN AFFIDAVIT ON THE INDIVIDUAL'S OWN BEHALF ONLY;"

2. Page 14, line 6.

Following: "signatures."**Insert:** "(1)"**Strike:** "An"**Insert:** "Except as provided in subsection (2), an"

3. Page 14.

Following: line 23**Insert:** "(2) (a) An individual may directly submit the
individual's own signature by submitting an affidavit, in
substantially the form provided in this subsection (2)(a).
The affidavit must appear on the petition signed by the
individual or be attached to the sheet submitted to the
county official.

I swear that I, the undersigned, have signed the
petition to which this affidavit is attached, that I am a
Montana elector who is registered at the address listed
below, and that I knew the contents of the petition before
signing the petition.

(Signature of signatory on petition)

(State on which signatory signed the petition)

(Address of signatory)

(b) An individual submitting a petition and affidavit
under this subsection (2) may submit the petition and
affidavit in person at the office of the county official or
by United States mail."

- END -

STATE ADMINISTRATION

Exhibit No. 3

Amendments to Senate Bill No. 96
1st Reading Copy

Date 2-19-07

Bill No. SB-96

Requested by Senator Rick Laible

For the Senate State Administration Committee

Prepared by Dave Bohyer
February 9, 2007 (2:23pm)

1. Page 18, line 22.

Following: "state"

Strike: "as soon as possible"

Insert: "within 5 days of the court's decision"

- END -

STATE ADMINISTRATION

Exhibit No. 4

Amendments to Senate Bill No. 96
1st Reading Copy

Date 2-19-07

Bill No. SB-96

Requested by Senator Carol Williams

For the Senate State Administration Committee

Prepared by Dave Bohyer
February 12, 2007 (12:41pm)

1. Page 8, line 12.

Following: "contain"

Strike: "a preamble or"

- END -

Exhibit No. 5Amendments to Senate Bill No. 96
1st Reading CopyDate 2-19-07Bill No. SB-96

Requested by Senator Carol Williams

For the Senate State Administration Committee

Prepared by Greg Petesch
February 6, 2007 (5:13pm)

1. Page 2, line 7.

Following: "(3)"**Insert:** "(a)"

2. Page 2, line 9.

Following: line 8**Insert:** "(b)(i) In an original proceeding under subsection (3)(a), the petitioner and the attorney general shall certify the absence of factual issues or shall stipulate to and file any factual record necessary to the supreme court's consideration of the attorney general ballot statements or legal sufficiency.

(ii) If the parties to an original proceeding under subsection (3)(a) fail to make the certification or stipulation required by subsection (3)(b)(i), the supreme court shall refer the proceeding to the district court in and for the county of Lewis and Clark for development of a factual record and an order that addresses the issues provided in 13-27-316(3). Any party may appeal the order of the district court to the supreme court by filing a notice of appeal within 5 days of the date of the order of the district court."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Diane Rice, on March 20, 2007 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Dave Gallik, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Douglas Cordier (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. George Everett (R)
Rep. Julie French (D)
Rep. Rick Jore (C)
Rep. Krayton Kerns (R)
Rep. Roger Koopman (R)
Rep. Deborah Kottel (D)
Rep. Tom McGillvray (R)
Rep. Jesse O'Hara (R)
Rep. Ken Peterson (R)
Rep. Holly Raser (D)
Rep. John Ward (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 382, SB 383, SB 96, SB 169, SB
170, SB 177, 3/13/2007
Executive Action: None

Questions from Committee Members and Responses:

03:01:39 Rep. Peterson
03:02:18 Mr. Dale
03:05:06 Rep. Everett
03:05:25 Mr. Dale
03:07:44 Rep. McGillvray
03:08:18 Mr. Dale
03:12:11 Rep. Stoker
03:12:18 Mr. Dale
03:13:11 Rep. French
03:13:45 Mr. Dale
03:16:37 Rep. McGillvray
03:17:14 Mr. Dale

Closing by Sponsor:

03:20:13 Sen. Perry

HEARING ON SB 96

Opening Statement by Sponsor:

03:25:11 Sen. Carol Williams (D), SD 46, opened the hearing on
SB 96, Generally revise initiative and referendum
process.

EXHIBIT(juh59a11)

EXHIBIT(juh59a12)

Proponents' Testimony:

03:28:59 Brad Johnson, Secretary of State, State of Montana
03:31:09 Mike McGrath, Attorney General (AG), State of Montana

EXHIBIT(juh59a13)

03:42:12 Brad Griffin, Montana Restaurant Association
03:43:52 Rhonda Wiggers, Enviromantics
03:49:00 Jason Miller, Montana State AFL-CIO
03:49:33 Jackie Boyle, AARP-Montana
03:50:59 Elizabeth Andrews, Montana Common Cause
03:51:51 Don Judge, Teamsters Local #190
03:53:06 Jim Ahrens, Chairman, Alliance for Healthy Montanans

Opponents' Testimony:

03:54:02 Travis Butcher, Montanans in Action
04:05:59 Mark Mackin, self

EXHIBIT(juh59a14)

Informational Testimony: None

Questions from Committee Members and Responses:

04:08:39 Rep. Kottel
04:09:31 AG McGrath
04:09:59 Rep. Stoker
04:10:13 AG McGrath
04:10:41 Rep. Koopman
04:12:05 AG McGrath
04:16:49 Rep. Koopman
04:17:50 Mr. Butcher
04:19:43 Rep. Peterson
04:20:21 AG McGrath
04:21:51 Rep. Gallik
04:22:27 AG McGrath

Closing by Sponsor:

04:22:43 Sen. Williams

EXHIBIT 12
DATE 3/20/07
SB 96

Amendments to Senate Bill No. 96
3rd Reading Copy

For the House Committee on Judiciary

Prepared by Dave Bohyer
March 20, 2007 (10:43am)

1. Title, line 16 through line 17.
Strike: "ALLOWING" on line 16 through "ONLY;" on line 17
2. Page 14, line 16.
Strike: "(1)"
Strike: "Except" through "an"
Insert: "An"
3. Page 15, line 4 through line 17.
Strike: subsection (2) in its entirety
4. Page 19, line 16.
Strike: "as soon as possible"
Insert: "within 5 days of the court's decision"

- END -

**SB 96: Improving the Ballot Measure Process
at the Request of Attorney General Mike McGrath
& Secretary of State Brad Johnson**

SB 96 seeks to streamline and simplify each step of the ballot measure process.

Signature Gathering

Under existing law, signature gatherers can swear they "gathered" or "assisted in gathering" signatures to qualify measures for the ballot. Under SB 96, gatherers could no longer swear to "assisting" in gathering signatures.

- SB 96 would also prohibit ballot measure supporters from paying signature gatherers per signature.
- Signature gatherers would have to be Montana residents.

Ballots

The statement of purpose is carefully crafted to clearly explain the intent of the initiative or referenda. In many counties, however, the statement of purpose does not appear on the ballots on which Montanans cast their votes. SB 96 would eliminate "abbreviated" ballots and place the statement of purpose of each measure on the ballots voters use.

It would also provide for notice of conflicting ballot issues on the voters' ballots.

Timelines

There are a number of confusing timelines in the ballot measure process.

SB 96 would condense the timeline for preparation of ballot statements and opinions of legal sufficiency to one 30-day period. It would lengthen the time for fiscal note preparation from six days to 10 days.

And SB 96 would ensure that the process begins and ends in the Secretary of State's Office. Under existing law, the text of a ballot measure must be submitted to legislative services. Under this bill, the text goes to legislative services only after submission to the Secretary of State.

Legal Review

Under SB 96, any challenge to the statement of purpose and legal sufficiency opinion provided by the attorney general would originate in the Montana Supreme Court. In the event the court revises a ballot statement, signatures gathered on petitions prior to the revision would be void.

Challenges to certification – due to illegally gathered signatures or a fraudulent canvass, for example – would have to be filed in Lewis & Clark County within 30 days of certification.

Summary

The ballot measure process is an important one, and Montana voters should have faith in every step of it. The changes proposed by SB 96 will help lessen voter confusion and simplify the process.

House Judiciary Committee

Testimony on SB 96

EXHIBIT 14
3/30/07
SB 96

Mark Mackin, 4703 Almosta Road, Helena, MT 59602 ph:227-5237 email:markmackin@juno.com

I have been an advocate for the initiative process since 1981. I am a third-year law student at the University of Montana.

My greatest concern is Section 6. at 13-27-201 (2) ... "and may not contain a preamble or argumentative language." Preambles are commonly used by legislators and initiative sponsors alike. It is part of the power of legislation reserved by the people in the Montana Constitution. Preambles state the case for the measure and may help it to survive a court challenge.

Prohibiting a preamble also eliminates the use of the initiative to pass a resolution. In 1982 Montanans passed Initiative 91, a resolution informing the Federal government Montana opposed the deployment of MX missiles. Enacting a statute would have been inappropriate, unnecessary, and have cluttered up the law.

Please amend SB 96 as follows:

On page 8, line 22, strike: "a preamble or".

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE: 3/20/07

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
REP. RON STOKER, VICE CHAIR	/	
REP. DAVE GALLIK, VICE CHAIR	/	
REP. JULIE FRENCH	/	
REP. GEORGE EVERETT	/	
REP. HOLLY RASER	/	
REP. ROGER KOOPMAN	/	
REP. DOUGLAS CORDIER	/	
REP. KRAYTON KERNS	/	
REP. ROBYN DRISCOLL	/	
REP. KEN PETERSON	/	
REP. JESSE O'HARA	/	
REP. TOM MCGILLVRAY	/	
REP. DEBORAH KOTTEL	/	
REP. JOHN WARD	/	
REP. BOB EBINGER	/	
REP. RICK JORE	/	
CHAIRMAN DIANE RICE	/	

**Montana House of Representatives
Visitors' Register**

Education COMMITTEE Date 3/20/07
 Sen. Bill Nos. 96, 169, 170 Sponsor(s) Williams, Anderson, Perry, Squires
174, 382, 383
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name	Representing	Bill No.	Support	Oppose	Info.
LINDA STOLK	MISSOULA COUNTY	SB169	✓		
Linda Gryczan	League of Q Voters	SB177	✓		
Mark Hagenes	MT Trout Unlimited	SB96	✓		
John W. Lam	Dist. 100	SB382	✓		
Charlie Briggs	MACDS	SB96	X		
Don Judge	Teamsters 190	SB96	X		
Janet Ellis	MT Audubon	SB96	X		
Aimee Gannon	MT Bankers Assoc	SB383	✓		
Scott Chubb	NCLL	SB382	✓		
Gloria Hermann	Yic. Mend. Heth. Comm	SB382	✓		
Gloria Hermann	MAP	SB382	✓		
Al Brimdon	AG's Office	SB170	✓		
Ischie Boyce	AARP-MT	SB96	✓		
Trevi Butcher	MFA	SB96		X	
Ronda Wiggers	ENVIRONOMICS	SB96	X		
Jasun Miller	AFL-CIO	SB96	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors' Register**

Judiciary COMMITTEE Date 3/20/07
 Bill Nos. 96, 169, 170, 177, 382, 383 Sponsor(s) William, Daniel, Tony Spumie,
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name	Representing	Bill No.	Support	Oppose	Info.
Charles Willey	BETTER section of State Bar	SB 383	✓		
Pat Melloy	MT Med Ass'n	SB 382	✓		
"	Rimrock Found.	SB 382	✓		
"	MT Psych. Ass'n	SB 382	✓		
Pam Burke	Corrections	SB 382	✓		
TRACY VELAZQUEZ	MT MENTAL Hlth	SB 382	✓		
Charles Brooks	Billings Chamber	SB 169	✓		
Eric Fearer	NEA-MFT	SB 96	⊖		
Bred Griffin	MT Rest Assoc.	SB 96	✓		
MATTHEW DALE	DOJ	SB 170	✓		
Janet Smith	cm cre	SB 96	✓		
Jennifer Hill-Hart	MC AIDS V	170	✓		
MARK MACCOW	SELF	SB 96		✓	
Robert Sewell	MONTANA Land Title	SB 383		✓	
Michael Kleese	MT American Title Ins.	SB 383	✓		
Carol Mackin	Self	SB 96		✓	
John Banow	MT Newspaper Assoc.		✓		
Ann Modley	BN's Assoc	SB 170 SB 177	✓		
Gordon Morris	Law & Clerk	SB 169	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 60th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Vice-Chairman Ron Stoker, on April 3, 2007 at 8:03 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Dave Gallik, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Douglas Cordier (D)
Rep. Robyn Driscoll (D)
Rep. Bob Ebinger (D)
Rep. George Everett (R)
Rep. Julie French (D)
Rep. Rick Jore (C)
Rep. Krayton Kerns (R)
Rep. Roger Koopman (R)
Rep. Deborah Kottel (D)
Rep. Tom McGillvray (R)
Rep. Jesse O'Hara (R)
Rep. Ken Peterson (R)
Rep. Holly Raser (D)
Rep. John Ward (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: SB 404, SB 49, SB 96, SB 110, SB
254, SB 326, SB 393, SB 424, SB
433, SB 437, SB 125, SB 142, SB 337

01:22:01 **Vote:** Motion that **SB 49 BE AMENDED** carried unanimously by voice vote. Reps. Jore, McGillvray, Rice and Koopman voted by proxy.

01:22:15 **Motion:** Rep. Ward moved that **SB 49 BE CONCURRED IN AS AMENDED.**

01:22:28 **Vote:** Motion that **SB 49 BE CONCURRED IN AS AMENDED** carried 16-1 by voice vote with Rep. Raser voting no. Reps. Jore, McGillvray, Rice and Koopman voted by proxy. Rep. Kottel to carry on House Floor.

01:22:59 Break

01:36:19 Reconvene

EXECUTIVE ACTION ON SB 96

01:36:43 **Motion:** Rep. Ward moved that **SB 96 BE CONCURRED IN.**

Discussion:

01:37:02 Mr. Niss

01:37:18 **Motion:** Rep. Rice moved that **SB 96 BE AMENDED** with amendment from hearing 3/20/07.

Discussion:

01:37:31 Mr. Niss

01:38:08 **Vote:** Motion that **SB 96 BE AMENDED** with amendment from previous hearing carried unanimously by voice vote. Reps. Jore and McGillvray voted by proxy.

01:38:21 **Motion:** Rep. Everett moved that **SB 96 BE CONCURRED IN AS AMENDED.**

01:38:47 **Motion:** Rep. Everett moved that **SB 96 BE AMENDED.**
EXHIBIT(juh71a05)

Discussion:

01:39:10 Rep. Everett

01:42:39 Mr. Niss

01:45:16 Rep. Kottel

01:46:13 Rep. Everett

01:48:48 Mr. Niss

01:50:41 Rep. Raser

01:51:09 Rep. Everett
01:51:27 Rep. Peterson
01:52:43 Rep. Gallik
01:56:17 Rep. Rice
01:56:31 Rep. Koopman

01:57:49 **Vote:** Motion that **SB 96 BE AMENDED** carried 9-8 by roll call vote. Reps. Jore and McGillvray voted by proxy.

01:58:48 **Motion:** Rep. Stoker moved that **SB 96 BE CONCURRED IN AS AMENDED.**

01:59:03 Rep. French

01:59:16 **Motion:** Rep. Stoker moved that **SB 96 BE AMENDED.**

EXHIBIT(juh71a06)

Discussion:

02:00:04 Rep. Stoker
02:01:02 Rep. Peterson
02:01:24 Rep. Stoker
02:01:46 Rep. French
02:01:56 Rep. Gallik
02:03:07 Rep. Stoker

02:03:22 **Substitute Motion:** Rep. Stoker made a substitute motion that **SB 96 BE AMENDED TO ADD "BUSINESS" AFTER 10 AND BEFORE DAYS.**

02:03:57 **Vote:** Motion that **SB 96 BE AMENDED** carried 9-8 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Peterson, Kottel, and Ebinger voting no. Reps. Jore and McGillvray voted by proxy.

02:04:46 **Motion:** Rep. Ward moved that **SB 96 BE CONCURRED IN AS AMENDED.**

02:05:15 **Motion:** Rep. Rice moved that **SB 96 BE AMENDED.**

EXHIBIT(juh71a07)

Discussion:

02:05:44 Mr. Niss
02:07:39 Rep. Peterson
02:08:14 Rep. Rice
02:08:49 Rep. Peterson

02:09:39 **Vote:** Motion that **SB 96 BE AMENDED** carried 12-5 by voice vote with Reps. Gallik, French, Raser, Ebinger and Driscoll voting no. Rep. Jore and McGillvray voted by proxy.

02:10:01 **Motion:** Rep. Stoker moved that **SB 96 BE CONCURRED IN AS AMENDED.**

02:10:18 **Motion:** Rep. Koopman moved that **SB 96 BE AMENDED.**
EXHIBIT(juh71a08)

Discussion:

02:12:54 Rep. French
02:13:55 Rep. Koopman
02:14:46 Rep. Gallik
02:16:17 Rep. Kottel
02:17:49 Rep. Ebinger
02:18:08 Rep. Koopman

02:20:07 **Vote:** Motion that **SB 96 BE AMENDED** carried 10-7 by voice vote with Reps. French, Cordier, Raser, Driscoll, Kottel, Gallik, and Ebinger voting no. Reps. Jore and McGillvray voting no.

02:20:37 **Motion:** Rep. Stoker moved that **SB 96 BE CONCURRED AS AMENDED.**

Discussion:

02:20:55 **Motion:** Rep. Kottel moved that **SB 96 BE AMENDED.**
EXHIBIT(juh71a09)

02:22:38 Rep. Kottel withdrew amendment.

02:23:15 **Motion:** Rep. Stoker moved that **SB 96 BE AMENDED.**
EXHIBIT(juh71a10)

02:24:02 **Vote:** Motion that **SB 96 BE AMENDED** carried 13-4 by voice vote with Reps. French, Ebinger, Gallik, and Raser voting no. Reps. Jore and McGillvray voted by proxy.

02:24:24 **Motion:** Rep. Ward moved that **SB 96 BE CONCURRED IN AS AMENDED.**

Discussion:

02:24:39 **Motion:** Rep. Peterson moved a **CONCEPTUAL AMENDMENT FOR PAGE 20, NEW SECTION; LINE 4, STRIKE AFTER DISTRICT COURT "IN AN" INSERT "OF THE", STRIKE "LEWIS AND CLARK COUNTY ", INSERT "THE QUALIFIED ELECTOR".**

02:25:55 Rep. Rice

02:26:57 **Vote:** Motion that **SB 96 BE AMENDED** carried by voice vote with Reps. with Reps. French, Raser, Cordier, Driscoll, Kottel, Ebinger, Gallik. Reps. Jore and McGillvray voted by proxy.

02:27:17 **Motion:** Rep. Stoker moved that **SB 96 BE CONCURRED IN AS AMENDED.**

Discussion:

02:27:39 Rep. Koopman

02:27:58 Rep. Raser

02:29:06 Rep. Everett

02:29:26 Rep. Gallik

02:29:50 **Vote:** Motion that **SB 96 BE CONCURRED IN AS AMENDED** carried 10-7 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Ebinger, and Jore voting no. Reps. Jore and McGillvray voted by proxy. Rep. Rep. Olson to carry on House Floor.

EXECUTIVE ACTION ON SB 110

02:30:51 **Motion:** Rep. Stoker moved that **SB 110 BE CONCURRED IN.**

Discussion:

02:31:09 Rep. Rice

02:32:01 Rep. French

02:32:25 Rep. Ebinger

02:32:41 Rep. Peterson

02:32:56 Rep. Stoker

02:33:44 **Vote:** Motion that **SB 110 BE CONCURRED IN** failed 8-9 by roll call vote with Reps. Gallik, French, Raser, Cordier, Driscoll, Peterson, Kottel, and Ebinger voting aye. Reps. French and Jore voted by proxy.

Amendments to Senate Bill No. 96
3rd Reading Copy

Requested by Representative George Everett

For the House Judiciary Committee

Prepared by David Niss
April 3, 2007 (7:28am)

1. Title, line 6.

Following: "ISSUE;"

Insert: "CHANGING THE ENTITY PREPARING BALLOT STATEMENTS FROM THE
ATTORNEY GENERAL TO THE LEGISLATIVE SERVICES DIVISION;"

2. Title, line 7.

Strike: "PREPARING BALLOT STATEMENTS AND"

3. Page 2, line 8.

Strike: "attorney general's"

Insert: "legislative services division's"

Following: "and"

Insert: "the attorney general's"

4. Page 2, line 12.

Strike: "ATTORNEY GENERAL"

Insert: "legislative service division's"

Following: "OR"

Insert: "the attorney general's"

Following: "SUFFICIENCY"

Insert: "determination"

5. Page 2, line 15.

Strike: "AND FOR"

Strike: "LEWIS AND CLARK"

Insert: "residence of the lead petitioner"

6. Page 8, line 22.

Strike: "and may not contain a preamble or argumentative
language"

7. Page 9, line 3.

Strike: "The text may not be submitted"

Insert: "Petitions may not be circulated for the purpose of
signature gathering"

8. Page 9, line 24.

Following: "and"

Insert: "to the legislative services division"

OVER

9. Page 10, line 10.

Strike: "attorney general"

Insert: "legislative services division"

10. Page 10, line 14.

Strike: "attorney general"

Insert: "legislative services division"

11. Page 11, line 25.

Following: "signature,"

Insert: "date,"

12. Page 12, line 25.

Following: "signature,"

Insert: "date,"

13. Page 13, line 25.

Following: "signature,"

Insert: "date,"

14. Page 15, line 6.

Following: "COUNTY"

Insert: "election"

15. Page 15, line 17.

Following: "COUNTY"

Insert: "election"

16. Page 15, line 23.

Strike: "and prepare ballot statements"

17. Page 15, lines 29 and 30.

Strike: "attorney " on line 29 through "general" on line 30

Insert: "legislative services division"

18. Page 16, line 7.

Strike: "return"

Insert: "send"

19. Page 16, line 8.

Strike: "attorney general"

Insert: "secretary of state"

20. Page 16, line 8.

Strike: "attorney general"

Insert: "legislative services division"

21. Page 17, lines 7 and 8.

Strike: "attorney general shall also"

Insert: "legislative services division shall"

22. Page 17, line 8.

Following: "and"

Insert: "the attorney general shall give the secretary of state"

23. Page 17, line 13.

Strike: "attorney general"

Insert: "legislative services division"

24. Page 17, line 16.

Strike: "attorney general"

Insert: "legislative services division"

25. Page 17, line 18.

Strike: "attorney general"

Insert: "legislative services division"

26. Page 17, line 20.

Strike: "attorney general"

Insert: "legislative services division"

27. Page 18, line 8.

Following: "or"

Insert: "legislative services division"

28. Page 18, line 10.

Strike: "attorney general"

Insert: "legislative services division"

29. Page 18, line 17.

Strike: "attorney general"

Insert: "legislative services division"

30. Page 18, line 23.

Following: "."

Insert: "The attorney general must respond to a complaint within 5 days."

31. Page 18, line 26.

Strike: "attorney general's"

Insert: "legislative services division's"

32. Page 19, line 5.

Strike: "attorney general"

Insert: "legislative services division"

Strike: "immediately"

Insert: "within 5 days"

33. Page 19, line 6.

Strike: "attorney general"

Insert: "legislative services division"

34. Page 19, line 15.

Strike: "attorney general"

Insert: "legislative services division"

35. Page 19, line 25.

Strike: "attorney general"

Insert: "legislative services division"

36. Page 19, line 28.

Strike: "attorney general's"

Insert: "legislative service division's"

Following: "or"

Insert: "the attorney general's"

37. Page 20, line 8.

Strike: "probably"

38. Page 22, line 4.

Strike: "-- abbreviated ballot"

39. Page 22, line 13.

Strike: "attorney general's"

Insert: "legislative services division's"

- END -

Amendments to Senate Bill No. 96
3rd Reading Copy

Requested by Representative Ron Stoker

For the House Judiciary Committee

Prepared by David Niss
March 30, 2007 (3:30pm)

1. Page 2.

Following: line 18

Insert: "(c) In an original proceeding pursuant to this subsection (3), the supreme court shall make its decision within 10 days of completion of the briefing schedule and any oral argument and shall report its decision within 5 days of completion of the decision."

- END -

EXHIBIT 7
DATE 4/3/87
SB 916

Amendments to Senate Bill No. 96
3rd Reading Copy

Requested by Representative Diane Rice

For the House Judiciary Committee

Prepared by David Niss
March 29, 2007 (2:15pm)

1. Title, line 17.

Following: "ONLY:"

Insert: "REQUIRING THAT FACTUAL STATEMENTS CONTAINED IN BALLOT
STATEMENTS MUST BE SUPPORTED BY DOCUMENTS FILED WITH THE
SECRETARY OF STATE;"

2. Title, line 19.

Following: "13-27-403,"

Insert: "13-27-409,"

3. Page 8, line 6.

Following: "resident"

Insert: ", as provided in 1-1-215,"

4. Page 8, line 7.

Following: "paid"

Insert: "anything of value"

5. Page 22.

Following: line 1

Insert: "Section 20. Section 13-27-409, MCA, is amended to read:

"13-27-409. Liability Fact statement to be supported --
liability for contents of argument. (1) A factual statement made
in an argument advocating approval or rejection of a ballot issue
or in a rebuttal argument to either of those arguments must be
supported by documents filed by the proponents or opponents with
the secretary of state within 2 business days of the date on
which the statements are required be filed with the secretary of
state.

(2) Nothing in this chapter relieves an author of any
argument from civil or criminal responsibility for statements
contained in an argument printed in the voter information
pamphlet."

{Internal References to 13-27-409: None.}"

Renumber: subsequent sections

- END -

Amendments to Senate Bill No. 96
3rd Reading Copy

Requested by Representative Roger Koopman

For the House Judiciary Committee

Prepared by David Niss
March 23, 2007 (7:37am)

1. Title, line 17.

Following: "TERMS;"

Insert: "PROVIDING A PENALTY;"

2. Page 14.

Following: line 13

Insert: "NEW SECTION. Section 13. Harassment of signature gatherers prohibited. A person may not knowingly or purposefully harass or intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a ballot measure and may not otherwise interfere with the collection of signatures on a petition for a ballot measure. A person who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by imprisonment for not more than 90 days, or by both a fine and imprisonment."

Renumber: subsequent sections

3. Page 26, line 24.

Strike: "[Section 12] is"

Insert: "[Sections 12 and 13] are"

4. Page 26, lines 25 and 26.

Strike: "[section 12]"

Insert: "[sections 12 and 13]"

5. Page 26, line 27.

Strike: "17"

Insert: "18"

6. Page 26, line 28.

Strike: "17"

Insert: "18"

- END -

Amendments to Senate Bill No. 96
3rd Reading Copy

Requested by Representative Deborah Kottel

For the House Judiciary Committee

Prepared by David Niss
March 29, 2007 (2:15pm)

1. Title, line 17.

Following: "TERMS;"

Insert: "PROVIDING A PENALTY;"

2. Page 8, line 6.

Following: "resident"

Insert: ", as provided in 1-1-215,"

3. Page 8.

Following: line 7

Insert: "(3) A person who violates subsection (2) shall be
punished as provided in 45-7-208."

- END -

Amendments to Senate Bill No. 96
3rd Reading Copy

Requested by Representative Ron Stoker

For the House Judiciary Committee

Prepared by David Niss
March 31, 2007 (10:49am)

1. Title, line 20.

Strike: the second "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 26.

Following: line 28

"NEW SECTION. Section 27. Effective date. [This act] is effective on passage and approval."

- END -

MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 96

Call to Order: By **SEN. CAROL WILLIAMS**, on April 18, 2007 at 10:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Carol Williams, Chairman (D)
Sen. Jesse Laslovich, (D)
Rep. Deborah Kottel, (D)
Rep. Edward B. Butcher (R)
Rep. George Everett (R)
Sen. Rick Laible (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Carol Andersen, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: SB 96

EXECUTIVE ACTION ON SB 96

00:00:03 Sen. Williams
00:01:15 David Niss, LSD

EXHIBIT(ccs82sb0096a01)

00:10:59 Sen. Williams
00:12:17 Rep. Everett
00:12:54 Rep. Kottel
00:13:18 David Niss
00:17:30 Rep. Kottel
00:17:58 David Niss
00:18:41 Rep. Kottel
00:20:22 David Niss
00:22:49 Sen. Laible
00:25:03 David Niss
00:25:47 Sen. Laible
00:26:34 David Niss
00:27:12 Sen. Laible
00:27:17 David Niss
00:28:49 Sen. Laible
00:30:11 Sen. Williams
00:31:01 Sen. Laslovich
00:31:20 Rep. Butcher
00:31:49 David Niss
00:32:45 Rep. Butcher
00:33:24 David Niss

00:34:30 Rep. Kottel
00:37:15 Sen. Laible
00:37:58 Rep. Kottel
00:38:35 David Niss
00:39:34 Sen. Williams
00:39:50 Pam Bucy, Assistant Attorney General, Department of
Justice
00:45:26 Mark Simonich, for Brad Johnson, Secretary of
State
00:50:48 David Niss
00:52:18 Sen. Williams
00:52:31 **Motion: SEN. LASLOVICH MOVED THAT AMENDMENT
SB009604.ADV BE ADOPTED.**

Discussion:

00:54:22 Sen. Laible
00:54:57 Sen. Williams
00:55:02 Sen. Laible
00:55:34 Sen. Williams
00:55:43 David Niss
01:03:22 Rep. Butcher
01:07:26 Sen. Williams
01:08:27 Sen. Laible
01:10:44 David Niss
01:10:48 Sen. Laible
01:10:54 David Niss
01:12:49 Rep. Kottel

01:15:05 Sen. Laible

01:15:47 Rep. Kottel

01:17:26 **SEN. LASLOVICH WITHDREW HIS AMENDMENT.**

01:17:51 Sen. Williams

01:18:10 Adjourned. Will resume April 20, 2007 at 9:00 A.M.

ADJOURNMENT

Adjournment: 11:20 A.M.

SEN. CAROL WILLIAMS, Chairman

CAROL ANDERSEN, Secretary

CW/ca

Additional Exhibits:

EXHIBIT (ccs82sb0096aad.pdf)

SENATE CC

Exhibit No. 1

Date 4-18-07

Amendments to Senate Bill No. 96
Reference Copy

Bill No. SB 96

Requested by Representative Edward Butcher

For the Senate Conference Committee

Prepared by David Niss
April 20, 2007 (8:44am)

1. Title, line 8.

Following: "DIVISION"

Insert: "AND REQUIRING THE ATTORNEY GENERAL TO ACCEPT OR REJECT
THE STATEMENTS"

2. Page 2, lines 12 and 13.

Strike: "LEGISLATIVE SERVICES DIVISION'S"

Insert: "attorney general's"

3. Page 2, line 17.

Strike: "LEGISLATIVE SERVICES DIVISION'S"

Insert: "attorney general's"

4. Page 9, line 11.

Following: "state"

Insert: "and may submit to the secretary of state draft ballot
statements that the proponent believes meet the requirements
of 13-27-312"

5. Page 10, line 4.

Following: "DIVISION"

Insert: ", along with any draft ballot statements provided by the
proponent,"

6. Page 10, line 19.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

7. Page 10, line 23.

Strike: "prepared"

Insert: "accepted"

8. Page 10, lines 23 and 24.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general pursuant to 13-27-312"

9. Page 16, line 26.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

10. Page 17.

Following: line 15

Insert: "(7) Upon completion of the ballot statements, the legislative services division shall forward the statements to the attorney general for acceptance or rejection."

Renumber: subsequent subsections

11. Page 17, line 25.

Following: "sufficient"

Insert: "and accepts the ballot statements prepared by the legislative services division"

12. Page 17, line 26.

Strike: "LEGISLATIVE SERVICES DIVISION SHALL"

Insert: "attorney general shall also"

13. Page 17, line 27.

Following: "prepared"

Insert: "by the legislative services division and accepted by the attorney general"

14. Page 18, line 5.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

15. Page 18, line 7.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

16. Page 18, line 10.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

17. Page 18, line 28.

Strike: "LEGISLATIVE SERVICES DIVISION"

18. Page 18, line 30.

Strike: "formulated by the attorney general LEGISLATIVE SERVICES DIVISION"

Insert: "accepted by the attorney general"

19. Page 19, line 3.

Following: "general's"

Insert: "acceptance of the statement or"

20. Page 19, lines 8 and 9.

Strike: "formulated by the attorney general LEGISLATIVE SERVICES DIVISION"

Insert: "accepted by the attorney general"

21. Page 19, line 18.

Strike: "LEGISLATIVE SERVICE DIVISION'S"

Following: "statements"

Insert: "accepted by the attorney general"

22. Page 19, line 27.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

23. Page 19, line 29.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

24. Page 20, line 8.

Following: "13-27-312"

Insert: "and forward them to the attorney general for acceptance
or rejection"

25. Page 20, line 9.

Following: "and"

Insert: "the attorney general shall"

26. Page 20, line 18.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

27. Page 20, line 21.

Strike: "LEGISLATIVE SERVICES DIVISION'S"

Insert: "attorney general's acceptance of"

28. Page 23, line 16.

Strike: "LEGISLATIVE SERVICES DIVISION'S"

Insert: "attorney general's"

- END -

[illegible]

MINUTES

MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION

CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 96

Call to Order: By **CAROL ANDERSEN**, on April 20, 2007 at 11:30
A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Carol Williams, Chairman (D)
Rep. Edward B. Butcher, Chairman (R)
Rep. George Everett (R)
Rep. Deborah Kottel (D)
Sen. Jesse Laslovich (D)
Sen. Rick Laible (R)

Members Excused: None.

Members Absent: None.

Staff Present: Carol Andersen, Committee Secretary
David Niss, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: None.
Executive Action: SB 96

EXECUTIVE ACTION ON SB 96

00:30:39 Motion: SEN. LASLOVICH moved that AMENDMENT
SB009644.ADB BE ADOPTED.

Discussion:

00:31:06 Rep. Everett

00:31:38 Sen. Williams

00:31:43 Sen. Laslovich withdrew his motion.

00:31:53 Motion: REP. KOTTEL moved that AMENDMENT SB009613.ADB
BE ADOPTED.

00:33:19 Sen. Williams

00:33:24 David Niss, LSD

00:33:40 Sen. Williams

00:34:42 Vote: Motion carried unanimously by voice vote.

00:34:52 Motion: SEN. LASLOVICH moved that AMENDMENT
SB009644.ADB BE ADOPTED.

Discussion:

EXHIBIT(ccs84sb0096a01)

00:35:04 Rep. Butcher

00:36:32 Sen. Williams

00:36:37 Motion: Sen. Laible called the question. Motion
carried unanimously by voice vote 6-6.

00:36:50 Motion: REP. BUTCHER moved that CONCEPTUAL AMENDMENT
BE ADOPTED.

EXHIBIT(ccs84sb0096a02)

Discussion:

00:38:20 Sen. Laslovich

00:39:46 Rep. Butcher

00:39:52 Sen. Laslovich
00:40:04 Rep. Butcher
00:41:04 Sen. Laslovich
00:44:34 Sen. Williams
00:44:45 David Niss, LSD
00:47:55 Sen. Butcher
00:48:01 Sen. Laible
00:48:04 Pam Bucy, Assistant Attorney General, Department of
Justice
00:50:44 Sen. Williams
00:50:55 Janice Doggett, Secretary of State's Office
00:51:41 Sen. Williams
00:51:47 Sen. Laslovich
00:52:13 Sen. Williams
00:52:29 Rep. Kottel
00:52:42 Sen. Laible
00:53:10 Rep. Butcher
00:55:39 Sen. Williams
00:56:39 Sen. Laible
00:56:57 Pam Bucy
00:57:53 Sen. Laible
00:58:04 Pam Bucy
00:58:35 Sen. Williams
00:60:05 Adjourned until 2:30 today.

ADJOURNMENT

Adjournment: 12:30 P.M.

SEN. CAROL WILLIAMS, Chairman

CAROL ANDERSEN, Secretary

CW/ca

SENATE CCS

Exhibit No. 1

Amendments to Senate Bill No. 96
Reference Copy

Date 4-20-07

Bill No. SB 96

Requested by Representative Edward Butcher

For Senate Free Confererence Committee

April ²⁰29, 2007 (11:00 am)

1. Page 9, line 11.

Following: "state"

Insert: "together with draft ballot statements that comply with 13-27-312"

2. Page 9, line 14.

Following: "issue"

Insert: "and statements"

3. Page 9, line 15.

Following: "text"

Insert: "and statements"

4. Page 9, line 16.

Strike: "and"

5. Page 9, line 17.

Following: "legislation"

Insert: "and a recommendation as to wether the statements comply with 13-27-312"

6. Page 9, line 18.

Following: "text"

Insert: "statements"

7. Page 9, line 20.

Following: "text"

Insert: "statements"

8. Page 10, line 3 through 4.

Strike: TO THE LEGISLATIVE SERVICES DIVISION"

9. Page 10, line 4.

Strike: "preparation"

Insert: "review"

Strike: "purusant to"

Insert: "for complaince with"

Following: "13-27-312"

Concept

Insert: "Upon a finding that the statements do not comply with 13-27-312 the Attorney General may prepare statements the Attorney General believes complies with 13-27-312."

SENATE CCS

Exhibit No. 2

Date 4-20-07

Amendments to Senate Bill No. 96 Bill No. SB 96
Reference Copy

Requested by Senator Jesse Laslovich
For the Senate Conference Committee

Prepared by Dave Bohyer
April 20, 2007 (10:18am)

1. Title, line 7 through page 8.
Strike: "CHANGING" on line 7 through "DIVISION;" on line 8
2. Title, line 9.
Following: "AND"
Insert: "PREPARING BALLOT STATEMENTS AND"
3. Page 2, line 12 through line 13.
Strike: "LEGISLATIVE" on line 12 through "DIVISION'S" on line 13
4. Page 2, line 13.
Strike: "THE ATTORNEY GENERAL'S"
5. Page 2, line 17.
Strike: "LEGISLATIVE SERVICES DIVISION'S"
Insert: "attorney general's"
6. Page 10, line 3 through line 4.
Strike: "TO" on line 3 through "DIVISION" on line 4
7. Page 10, line 19.
Strike: "LEGISLATIVE SERVICES DIVISION"
Insert: "attorney general"
8. Page 10, line 23 through line 24.
Strike: "LEGISLATIVE" on line 23 through "DIVISION" on line 24
Insert: "attorney general"
9. Page 16, line 10.
Strike: "statements"
Insert: "and prepare ballot statements"
10. Page 16, line 17.
Strike: "LEGISLATIVE SERVICES DIVISION"
Insert: "attorney general shall endeavor to seek out parties on
both sides of the issue and obtain their advice. The
attorney general"
11. Page 16, line 24.
Strike: "SEND"
Insert: "return"

12. Page 16, line 26.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

13. Page 17, line 26.

Strike: "LEGISLATIVE" through "SHALL"

Insert: "attorney general shall also"

14. Page 17, line 27.

Following: "and"

Strike: "THE" through "STATE"

15. Page 18, line 1.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

16. Page 18, line 5.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

17. Page 18, line 7.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

18. Page 18, line 10.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

19. Page 18, line 28.

Strike: "LEGISLATIVE SERVICES DIVISION"

20. Page 18, line 30.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

21. Page 19, line 8 through line 9.

Strike: "LEGISLATIVE" on line 8 through "DIVISION" on line 9

Insert: "attorney general"

22. Page 19, line 18.

Strike: "LEGISLATIVE SERVICES DIVISION'S"

Insert: "attorney general's"

23. Page 19, line 27.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

24. Page 19, line 29.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

25. Page 20, line 8.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

26. Page 20, line 18.

Strike: "LEGISLATIVE SERVICES DIVISION"

Insert: "attorney general"

27. Page 20, line 21.

Strike: "LEGISLATIVE SERVICES DIVISION'S"

Insert: "attorney general's"

Strike: "THE ATTORNEY GENERAL'S"

28. Page 23, line 16.

Strike: "LEGISLATIVE SERVICES DIVISION's"

Insert: "attorney general's"

- END -

VISITOR REGISTER
Conference Committee
JUDICIARY

BILLS BEING HEARD TODAY SB 96

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

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SENATE BILL NO. 96
INTRODUCED BY C. WILLIAMS, WEINBERG
BY REQUEST OF THE DEPARTMENT OF JUSTICE AND THE SECRETARY OF STATE

AN ACT GENERALLY REVISING THE LAWS RELATING TO INITIATIVES AND REFERENDUMS; REVISING THE PROCEDURE FOR REVIEWING A PROPOSED BALLOT ISSUE; CHANGING THE ENTITY PREPARING BALLOT STATEMENTS FROM THE ATTORNEY GENERAL TO THE PETITIONER, WITH REVIEW BY THE LEGISLATIVE SERVICES DIVISION AND APPROVAL BY THE ATTORNEY GENERAL FOR INITIATED MEASURES AND PREPARATION BY THE ATTORNEY GENERAL FOR REFERRED MEASURES; REVISING THE ATTORNEY GENERAL'S PROCEDURE FOR REVIEWING PROPOSED BALLOT ISSUES FOR LEGAL SUFFICIENCY; PROVIDING THAT THE SUPREME COURT HAS ORIGINAL JURISDICTION TO HEAR CHALLENGES TO THE ATTORNEY GENERAL'S BALLOT STATEMENTS AND DETERMINATION OF LEGAL SUFFICIENCY; REQUIRING THE ATTORNEY GENERAL TO PREPARE A STATEMENT IF A PROPOSED BALLOT ISSUE CONFLICTS WITH ANOTHER PROPOSED BALLOT ISSUE; REQUIRING THE SECRETARY OF STATE TO PREPARE THE PETITION FORM FOR BALLOT ISSUES; PROVIDING THAT SIGNATURE GATHERERS MUST BE MONTANA RESIDENTS AND MAY NOT BE PAID BASED UPON THE NUMBER OF SIGNATURES GATHERED; ELIMINATING THE CERTIFICATION OF SIGNATURES BY A PERSON WHO ASSISTED IN GATHERING THE SIGNATURES; REQUIRING THAT FACTUAL STATEMENTS CONTAINED IN BALLOT STATEMENTS MUST BE SUPPORTED BY DOCUMENTS FILED WITH THE SECRETARY OF STATE; PROVIDING FOR CONSISTENT USE OF DEFINED TERMS; PROVIDING A PENALTY; AMENDING SECTIONS 3-2-202, 3-5-302, 13-1-101, 13-22-102, 13-27-102, 13-27-201, 13-27-202, 13-27-204, 13-27-205, 13-27-207, 13-27-208, 13-27-302, 13-27-312, 13-27-315, 13-27-316, 13-27-402, 13-27-403, 13-27-409, 13-27-501, 13-35-207, 13-37-210, 13-37-226, AND 13-37-228, MCA; REPEALING SECTIONS 13-27-310 AND 13-27-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2-202, MCA, is amended to read:

"3-2-202. Original jurisdiction -- contest review of ballot issue statements. (1) ~~Except as provided in subsection (3), in~~ In the exercise of its original jurisdiction, the supreme court has power to issue writs of mandamus, certiorari, prohibition, injunction, and habeas corpus.

(2) ~~It also~~ The supreme court has the power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

(3) (a) ~~Except as provided in subsection (3)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

~~—(i) violation of the law relating to qualifications for inclusion on the ballot;~~

~~—(ii) constitutional defect in the substance of a proposed ballot issue; or~~

~~—(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

~~(b) A contest of a ballot issue based on subsection (3)(a)(i) or (3)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

(3) (a) The supreme court has original jurisdiction to review the petitioner's ballot statements for initiated measures and the attorney general's ballot statements for referred measures and the attorney general's legal sufficiency determination in an action brought pursuant to 13-27-316.

(b) (i) In an original proceeding under subsection (3)(a), the petitioner and the attorney general shall certify the absence of factual issues or shall stipulate to and file any factual record necessary to the supreme court's consideration of the petitioner's ballot statements or the attorney general's legal sufficiency determination.

(ii) If the parties to an original proceeding under subsection (3)(a) fail to make the certification or stipulation required by subsection (3)(b)(i), the supreme court shall refer the proceeding to the district court in the county of residence of the lead petitioner for development of a factual record and an order that addresses the issues provided in 13-27-316(3). Any party may appeal the order of the district court to the supreme court by filing a notice of appeal within 5 days of the date of the order of the district court. If a lead petitioner has not been designated in accordance with this section or if the parties to the proceeding agree, the proceeding must be referred to the district court for Lewis and Clark County.

(4) As used in this section, "lead petitioner" means an individual designated by the petitioner or petitioners on a form provided by the secretary of state.

~~(e)(5)~~ Nothing in subsection (3) limits the right to challenge a ~~measure~~ ballot issue enacted by a vote of the

people."

Section 2. Section 3-5-302, MCA, is amended to read:

"3-5-302. Original jurisdiction. (1) ~~Except as provided in subsection (6), the~~ The district court has original jurisdiction in:

- (a) all criminal cases amounting to felony;
- (b) all civil and probate matters;
- (c) all cases at law and in equity;
- (d) all cases of misdemeanor not otherwise provided for; and
- (e) all ~~such~~ special actions and proceedings ~~as that~~ are not otherwise provided for.

(2) The district court has concurrent original jurisdiction with the justice's court in the following criminal cases amounting to misdemeanor:

(a) misdemeanors arising at the same time as and out of the same transaction as a felony or misdemeanor offense charged in district court;

(b) misdemeanors resulting from the reduction of a felony or misdemeanor offense charged in the district court; and

(c) misdemeanors resulting from a finding of a lesser included offense in a felony or misdemeanor case tried in district court.

(3) The district court has exclusive original jurisdiction in all civil actions that might result in a judgment against the state for the payment of money.

(4) The district court has the power of naturalization and of issuing papers ~~therefor~~ for naturalization in all cases where it is authorized to do so by the laws of the United States.

(5) The district court and its judges have power to issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and injunction, other original remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held in actual custody in their respective districts. Injunctions and writs of prohibition and habeas corpus may be issued and served on legal holidays and nonjudicial days.

~~(6) (a) Except as provided in subsection (6)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:~~

- ~~—(i) violation of the law relating to qualifications for inclusion on the ballot;~~
- ~~—(ii) constitutional defect in the substance of a proposed ballot issue; or~~
- ~~—(iii) illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~

- ~~—(b) A contest of a ballot issue based on subsection (6)(a)(i) or (6)(a)(iii) may be brought at any time after discovery of illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.~~
- ~~—(c) Nothing in subsection (6) limits the right to challenge a measure enacted by a vote of the people."~~

Section 3. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Active elector" means an elector who voted in the previous federal general election and whose name is on the active list.
- (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.
- (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.
- (4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.
- (5) "Ballot" means:
 - (a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or
 - (b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.
- (6) "Candidate" means:
 - (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;
 - (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:
 - (i) solicitation is made;
 - (ii) contribution is received and retained; or
 - (iii) expenditure is made; and
 - (c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for

the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon ~~approval~~ preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers

or on a ballot issue.

(22) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(31) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."

Section 4. Section 13-22-102, MCA, is amended to read:

"13-22-102. Purpose and intent. The intent of the legislature is to establish a nonpartisan youth voting program that will:

- (1) provide the youth of Montana with practical experience in the democratic process;
- (2) increase the likelihood that Montana's youth will participate in the process as adult voters and encourage the participation of more parents in elections;
- (3) not benefit any elected official, candidate for elective office, political party, campaign for or against any ballot issue, or any ~~measure~~ proposed ballot issue attempting to qualify for placement on a ballot; and
- (4) be entirely funded through private donations."

Section 5. Section 13-27-102, MCA, is amended to read:

"13-27-102. Who may petition and gather signatures. (1) A petition for the initiative, the referendum, or to call a constitutional convention may be signed only by a qualified elector of the state of Montana.

(2) A person gathering signatures for the initiative, the referendum, or to call a constitutional convention:

(a) must be a resident, as provided in 1-1-215, of the state of Montana; and

(b) may not be paid anything of value based upon the number of signatures gathered."

Section 6. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the measure issue to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the measure issue proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure issue must be in the bill form provided in the most recent issue edition of the bill drafting manual furnished by the legislative services division. If sheets are circulated in sections, the complete text of the measure issue must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state pursuant to 13-27-302."

Section 7. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required. ~~(1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:~~

~~—(a) The text of the proposed measure must be submitted to the legislative services division for review:~~

(1) A proponent of a ballot issue shall submit the text of the proposed issue to the secretary of state together with draft ballot statements intended to comply with 13-27-312. Petitions may not be circulated for the purpose

of signature gathering more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall forward a copy of the text of the proposed issue and statements to the legislative services division for review.

~~(b)(2)~~ (a) The legislative services division staff shall review the text and statements for clarity, consistency, and conformity with the most recent edition of the bill drafting manual furnished by the legislative services division, the requirements of 13-27-312, and any other factors that the staff considers when drafting proposed legislation.

~~(e)(b)~~ Within 14 days after submission of the text and statements, the legislative services division staff shall make recommend in writing to the person submitting the text written recommendations for changes in proponent revisions to the text and revisions to the statements to make them consistent with any recommendations for change to the text and the requirements of 13-27-312 or a statement state that no changes revisions are recommended.

~~(d)(c)~~ The ~~person submitting the text~~ proponent shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended ~~changes~~ revisions. If ~~no changes~~ revisions are not recommended, ~~no a~~ response is not required.

~~(2)(3)~~ The legislative services division shall furnish a copy of the correspondence provided for in subsection ~~(4)~~ (2) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

~~(3)(4)~~ Before a petition may be circulated for signatures, ~~a sample sheet containing the final text of the proposed measure issue and ballot statements must be submitted to the secretary of state in the form in which it will be circulated. The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall reject the proposed issue if the text or a ballot statement contains material not submitted to the legislative services division that is a substantive change not recommended by the legislative services division. The If accepted, the secretary of state shall refer a copy of the petition sheet proposed issue and statements to the attorney general for approval a determination as to the legal sufficiency of the issue and for approval of the petitioner's ballot statements and for a determination pursuant to 13-27-312 whether a fiscal note is necessary. The secretary of state and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-~~

~~27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division.~~

~~(4)(5) (a) The secretary of state shall review the comments legal sufficiency opinion and ballot statements of the attorney general petitioner, as approved by the attorney general and received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the petition.~~

~~(b) If the attorney general approves the proposed issue, the secretary of state shall immediately send to the person submitting the proposed issue a sample petition form, including the text of the proposed issue, the statement of purpose, and the statements of implication, as prepared by the petitioner, reviewed by the legislative services division, and approved by the attorney general and in the form provided by this part. A signature gatherer may circulate the petition only in the form of the sample prepared by the secretary of state. The secretary of state shall immediately provide a copy of the sample petition form to any interested parties who have made a request to be informed of an approved petition.~~

~~(b)(c) The If the attorney general rejects the proposed issue, the secretary of state shall send written notice to the person who submitted the petition sheet proposed issue of the approval or rejection, of the form of the petition within 28 days after submission of the petition sheet including the attorney general's legal sufficiency opinion.~~

~~(e)(d) If an action is filed challenging the validity of the petition, the secretary of state shall immediately notify the person who submitted the petition sheet proposed issue.~~

~~(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.~~

~~(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implication, all as approved by the secretary of state and the attorney general. The petition may be circulated by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the attorney general pending a final determination of its legal sufficiency."~~

Section 8. Section 13-27-204, MCA, is amended to read:

"13-27-204. Petition for initiative. (1) The following is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO. ____ ON THE ELECTION BALLOT (a) If 5% of the voters in each of one-half of the counties sign this petition and the total number of voters signing this petition is ____, this measure initiative will appear on the next general election ballot. If a majority of voters vote for this measure initiative at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following measure initiative on the ____, 20__, general election ballot:

(Title of measure initiative written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-

312) (c) Voters are urged to read the complete text of the measure initiative, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the measure initiative on the ballot and does not necessarily mean the signer agrees with the measure initiative.

(d)

WARNING A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 9. Section 13-27-205, MCA, is amended to read:

"13-27-205. Petition for referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO. ____ ON THE ELECTION BALLOT (a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is ____, Senate (House) Bill Number ____ will appear on the next general election ballot. If a majority of voters vote for this measure referendum at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number _____, passed by the legislature on _____ on the next general election ballot:

(Title of referendum written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-

312) (c) Voters are urged to read the complete text of the ~~measure~~ referendum, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the ~~measure~~ referendum on the ballot and does not necessarily mean the signer agrees with the ~~measure~~ referendum.

(d)

WARNING A person who purposefully signs a name other than the person's own to this petition, or who signs more than once for the same issue at one election, or signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person ~~must~~ is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter ~~registry~~ registration card; or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, legislative representative district number, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 10. Section 13-27-207, MCA, is amended to read:

"13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL AMENDMENT NO. _____ ON THE ELECTION BALLOT (a) If 10% of the voters in each of one-half of the counties sign this petition and the total number of voters signing the petition is _____, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the _____, 20____, general election ballot:

(Title of the proposed constitutional amendment written pursuant to 13-27-312)(Statement of implication written

pursuant to 13-27-312) (c) Voters are urged to read the complete text of the ~~measure~~ constitutional amendment, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on

this petition is only to put the constitutional amendment on the ballot and does not necessarily mean the signer agrees with the amendment.

(d)

WARNING A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, date, residence address, county of residence, and printed last name and first and middle initials of the signer. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 11. Section 13-27-208, MCA, is amended to read:

"13-27-208. Petitions to be made available in each county election administrator's office. Upon final approval of ~~a petition~~ a proposed ballot issue as ~~required under 13-27-202(4)~~ provided in 13-27-202, the secretary of state shall forward a copy of the petition, along with signature sheets, to the election administrator of each county. The election administrator shall make a copy of each approved petition available for reading ~~and signing~~ in the administrator's office during business hours in an election year until the petitions are submitted under 13-27-301. The secretary of state may charge the person who submitted the ~~petition~~ proposed ballot issue a fee, which must be set and deposited in accordance with 2-15-405."

Section 12. Issues referred by legislature. The secretary of state shall transmit a copy of an act referred to the people or a constitutional amendment proposed by the legislature to the attorney general no later than 6 months before the election at which the issue will be voted on by the people.

Section 13. Physical prevention of obtaining signatures or physical intimidation of signature gatherers prohibited. A person may not knowingly or purposefully physically prevent an individual from obtaining signatures or attempting to obtain signatures on a petition for a ballot issue or physically intimidate another individual when that individual is obtaining or attempting to obtain signatures on a petition for a ballot

issue. A person who violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500, by imprisonment for not more than 90 days, or by both a fine and imprisonment.

Section 14. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. ~~An~~ An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who is the signature gatherer), swear that I gathered ~~or assisted in gathering~~ the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

& #160; 0; &# 160; 0; &# 160;
160; _____

& #160; 0; &# 160; 0; (da te on which the first signature was gathered)

& #160; 0; &# 160; 0; _____

& #160; 0; &# 160; 0; &# 160; (Signature of petition signature gatherer)

& #160; 0; &# 160; 0; _____

& #160; 0; &# 160; 0; &# 160; (Address of petition signature gatherer)

Subscribed and sworn to before me this ____ day of _____, 20__

Seal 0; &# 160; 0; &# 160;

& #160; 0; &# 160; 0; &# 160; (Person authorized to take oaths)

& #160; 0; &# 160;
0; _____

& #160; 0; &# 160; 0; &# 160; 0; (Title or notarial information)"

Section 15. Section 13-27-312, MCA, is amended to read:

"13-27-312. Review of petition proposed ballot issue and statements by attorney general -- preparation of statements-- fiscal note. (1) Upon receipt of a petition proposed ballot issue and statements from the office of the secretary of state pursuant to 13-27-202, the attorney general shall examine the ~~petition as to form and proposed issue~~ for legal sufficiency; as provided in 13-27-202, and, if the ~~proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205~~ this section and shall determine whether the ballot statements comply with the requirements of this section. The budget director, in cooperation with the agency or agencies affected by the petition, is responsible for preparing the ~~fiscal note and shall return it within 6 days unless the attorney general, for good cause shown, extends the time for completing the fiscal note.~~

(2) ~~If the petition form is approved, the~~ The attorney general shall endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall prepare attorney general shall, in reviewing the ballot statements, endeavor to seek out parties on both sides of the issue and obtain their advice. The attorney general shall review the ballot statements to determine if they contain the following matters:

(a) a statement, not to exceed 100 words, explaining the purpose of the ~~measure~~ issue; and

(b) statements, not to exceed 25 words each, explaining the implications of a vote for and a vote against the ~~measure~~ issue.

(3) If the proposed ballot issue has an effect on the revenue, expenditures, or the fiscal liability of the state, the attorney general shall order a fiscal note incorporating an estimate of the effect, the substance of which must substantially comply with the provisions of 5-4-205. The budget director, in cooperation with the agency or agencies affected by the ballot issue, is responsible for preparing the fiscal note and shall return it to the attorney general within 10 days. The If the fiscal note indicates a fiscal impact, the ~~attorney general~~ attorney general shall prepare a fiscal statement of no more than 50 words if ~~a fiscal note was prepared for the proposed ballot issue~~, and the statement must be used on the petition and ballot if the ~~measure~~ issue is placed on the ballot.

(4) ~~The statement of purpose and the~~ ballot statements of implication must express the true and impartial explanation of the proposed ballot issue in plain, easily understood language and may not be arguments or written so as to create prejudice for or against the ~~measure~~ issue. ~~Statements of implication must be written so that a positive vote indicates support for the measure and a negative vote indicates opposition to the measure.~~

(5) ~~The~~ Unless altered by the court under 13-27-316, the statement of purpose, unless altered by a court under 13-27-316, is the petition title for the ~~measure~~ issue circulated by the petition and the ballot title if the

~~measure issue~~ is placed on the ballot.

(6) The statements of implication must be written so that a positive vote indicates support for the issue and a negative vote indicates opposition to the issue and must be placed beside the diagram provided for marking of the ballot in a manner similar to but not limited to the following example:

- ☐ FOR extending the right to vote to persons 18 years of age
- ☐ AGAINST extending the right to vote to persons 18 years of age

~~(7) If the petition is rejected as to form, the attorney general shall forward the comments to the secretary of state within 21 days after receipt of the petition by the attorney general. If the petition is approved as to form, the attorney general shall forward the statement of purpose, the statements of implication, and the fiscal statement, if applicable, to the secretary of state within 21 days after receipt of the petition by the attorney general.~~

(7) The attorney general shall review the proposed ballot issue for legal sufficiency. As used in this part, "legal sufficiency" means the petition complies with statutory and constitutional requirements governing submission of the proposed issue to the electors. Review of the petition for legal sufficiency does not include consideration of the substantive legality of the issue if approved by the voters. The attorney general shall also determine if the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

~~(8) (a) If the petition is approved as to form, within Within 30 days of the approval after receipt of the proposed issue from the secretary of state, the attorney general shall forward to the secretary of state the determination regarding an opinion as to the issue's legal sufficiency, as provided in 13-27-202.~~

(b) If the attorney general determines that the proposed ballot issue is legally sufficient, the attorney general shall also forward to the secretary of state the petitioner's ballot statements that comply with the requirements of this section. If the attorney general determines in writing that a ballot statement clearly does not comply with the requirements of this section, the attorney general shall prepare a statement that complies with the requirements of this section, forward that statement to the secretary of state as the approved statement, and provide a copy to the petitioner. The attorney general shall give the secretary of state notice of whether the proposed issue conflicts with one or more issues that may appear on the ballot at the same election.

(c) If the attorney general determines that the proposed ballot issue is not legally sufficient, the secretary of state may not deliver a sample petition form unless the attorney general's opinion is overruled pursuant to 13-27-316 and the attorney general has approved or prepared ballot statements under this section."

Section 16. Section 13-27-315, MCA, is amended to read:

"13-27-315. Statements by ~~attorney general~~ attorney general on issues referred by legislature. (†)

Upon receipt of a copy of a ballot form under 13-27-310(2) for an issue proposed referred by the legislature from the secretary of state pursuant to [section 12], the ~~attorney general~~ attorney general shall ~~order a fiscal note as provided in 13-27-312(1) if the issue has an effect on the revenues, expenditures, or the fiscal liability of the state prepare and forward to the secretary of state, within 30 days, ballot statements as provided in 13-27-312, except that the attorney general may not prepare statements of implication of a vote for or against a ballot issue if the statements have been provided by the legislature. At the same time the explanatory statement is prepared under subsection (2), the attorney general shall prepare a fiscal statement of no more than 50 words to be forwarded to the secretary of state at the same time as the explanatory statement.~~

(2) ~~At the same time the attorney general, pursuant to 13-27-313, informs the secretary of state of the approval or rejection of a ballot form for an issue proposed by the legislature, the attorney general shall forward to the secretary of state a statement, not exceeding 100 words, expressing a true and impartial explanation of the purpose of the measure in plain, easily understood language. The statement may not be an argument and may not be written to create a prejudice for or against the issue. The statement prepared under this section is known as the attorney general's explanatory statement.~~

~~—(3) If statements of the implication of a vote for or against a ballot issue have not been provided by the legislature, the attorney general shall prepare the statements. Requirements for statements of implication for ballot issues referred by the legislature are the same as those provided in 13-27-312 for other ballot issues. Statements of implication prepared by the attorney general must be returned to the secretary of state no later than the time specified for approval of the ballot form."~~

Section 17. Section 13-27-316, MCA, is amended to read:

"13-27-316. Court review of attorney general opinion or approved petitioner statements. (1) If the proponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ ballot statements formulated approved by the ~~attorney general~~ attorney general pursuant to 13-27-312 do not satisfy the requirements of 13-27-312; or believe that the attorney general was incorrect in determining that the petition was legally deficient, they may, within 10 days of the ~~secretary of state's or attorney general's determination regarding legal sufficiency provided for in 13-27-202, file an action in the district court in and for the county of Lewis and Clark~~ original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's determination and requesting the court to alter the statement or modify the attorney general's determination.

(2) If the opponents of a ballot measure believe that the ~~statement of purpose, the statements of implication of a vote, or the fiscal statement~~ petitioner ballot statements formulated approved by the ~~attorney general~~ attorney general pursuant to 13-27-312 do not satisfy the requirements of 13-27-312; or believe that the attorney

general was incorrect in determining that the petition was legally sufficient, they may, within 10 days of the date of certification to the governor that the completed petition has been officially filed, file an ~~action in the district court in and for the county of Lewis and Clark~~ original proceeding in the supreme court challenging the adequacy of the statement or the attorney general's ~~conclusion~~ determination and requesting the court to alter the statement or overrule the attorney general's determination concerning the legal sufficiency of the petition. The attorney general must respond to a complaint within 5 days.

(3) (a) Notice must be served upon the secretary of state and upon the attorney general.

(b) If the proceeding requests modification of ballot statements, an action brought under this section must state how the petitioner's ballot statements approved by the attorney general do not satisfy the requirements of 13-27-312 and must propose alternate ballot statements that satisfy the requirements of 13-27-312.

(c) (i) Pursuant to Article IV, section 7(2), of the Montana constitution, an action brought pursuant to this section takes precedence over other cases and matters in the district supreme court. The court shall examine the proposed measure issue and the challenged statement or determination of the attorney general and shall as soon as possible render a decision and certify to the secretary of state a statement which the court determines will meet the requirements of 13-27-312 or an opinion as to the adequacy of the ballot statements or the correctness of the attorney general's determination.

(ii) If the court decides that the ballot statements do not meet the requirements of 13-27-312, it may order the attorney general to revise the statements within 5 days or certify to the secretary of state a statement that the court determines will meet the requirements of 13-27-312. A statement revised by the attorney general pursuant to the court's order or certified by the court must be placed on the petition for circulation and on the official ballot.

(iii) If the court decides that the attorney general's legal sufficiency determination is incorrect and that a proposed issue does not comply with statutory and constitutional requirements governing submission of the issue to the electors, any petitions supporting the issue are void and the issue may not appear on the ballot. A proponent of the ballot issue may resubmit a revised issue pursuant to 13-27-202, subject to the deadlines provided in this chapter.

(iv) If the court decides that the attorney general's legal deficiency determination is incorrect and that a proposed issue complies with statutory and constitutional requirements governing submission of the issue to the electors, the attorney general shall prepare ballot statements pursuant to 13-27-312 and forward the statements to the secretary of state within 5 days of the court's decision.

~~(b) A statement certified by the court must be placed on the petition for circulation and on the official ballot.~~

~~(4) A copy of the petition in final form must be filed in the office of the secretary of state by the proponents.~~

~~(5) Any party may appeal the order of the district court to the Montana supreme court by filing a notice of appeal within 5 days of the date of the order of the district court.~~

(4) A petition for a proposed ballot issue may be circulated by a signature gatherer upon transmission of the sample petition form by the secretary of state pending review under this section. If, upon review, the attorney general or the supreme court revises the petition form or ballot statements, any petitions signed prior to the revision are void.

(5) An original proceeding in the supreme court under this section is the exclusive remedy for a challenge to the petitioner's ballot statements, as approved by the attorney general, or the attorney general's legal sufficiency determination. A ballot issue may not be invalidated under this section after the secretary of state has certified the ballot under 13-12-201.

(6) This section does not limit the right to challenge a constitutional defect in the substance of an issue approved by a vote of the people."

Section 18. Contest of ballot issue petitions. (1) Any qualified elector may, within 30 days after the date on which the issue was certified to the governor, file an action in the district court in the county of residence of the qualified elector contesting the certification of a ballot issue for illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures.

(2) If a court finds that illegal petition signatures or an erroneous or fraudulent count or canvass of petition signatures affected the outcome of the petition process and certification, the secretary of state shall decertify the contested ballot issue.

Section 19. Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments advocating approval or rejection of the ballot issue and rebuttal arguments must be submitted to the secretary of state by committees appointed as provided in this section.

(2) The committee advocating approval of a legislative act referred to the people either by the legislature or by referendum petition or advocating approval of a constitutional amendment referred by the legislature must be composed of:

- (a) one senator known to favor the referred ~~measure~~ ballot issue, appointed by the president of the senate;
- (b) one representative known to favor the referred ~~measure~~ ballot issue, appointed by the speaker of the house of representatives; and
- (c) one individual who need not be a member of the legislature, appointed by the first two members.

(3) (a) The committee advocating rejection of an act referred to the people or of a constitutional amendment proposed by the legislature must be composed of:

- (i) one senator appointed by the president of the senate;
 - (ii) one representative appointed by the speaker of the house of representatives; and
 - (iii) one individual who need not be a member of the legislature, appointed by the first two members.
- (b) Whenever possible, the members must be known to have opposed the issue.

(4) The following must be three-member committees and must be appointed by the person submitting the ~~petition~~ ballot issue to the secretary of state under the provisions of 13-27-202:

- (a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and
- (b) the committee advocating rejection of any legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition must be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member must be appointed by the first four members. If possible, members must be known to favor rejection of the issue.

(6) A person may not be required to serve on any committee under this section, and except for legislative appointments made by the president of the senate or by the speaker of the house of representatives, the person making an appointment must have written acceptance of appointment from the appointee. If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments."

Section 20. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Except as provided in subsection (2), appointments to committees advocating approval or rejection of an act referred to the people, a constitutional amendment proposed by the legislature, or a ballot ~~measure~~ issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week prior to the deadline for filing arguments on the ballot issue under 13-27-406.

(2) Appointments to committees advocating approval or rejection of a ballot ~~measure~~ issue referred to the people by referendum petition or proposed by any type of initiative petition must be made no later than 1 week before the deadline for filing arguments on the ballot issue under 13-27-406. All persons responsible for appointing members to the committee shall submit to the secretary of state the names and addresses of the appointees no later than the date set by this subsection. The submission must include the written acceptance of appointment from each appointee required by section 13-27-402(6). If an appointment is not made by the required time, the committee members that have been appointed may fill the vacancy by unanimous written consent up until the deadline for filing the arguments.

(3) Within 5 days after receiving notice under subsection (2); but not later than 5 days after the deadline set for appointment of committee members, the secretary of state shall notify the appointees to a committee appointed pursuant to subsection (1) or (2) by certified mail, with return receipt requested, of the deadlines for submission of the committee's arguments."

Section 21. Section 13-27-409, MCA, is amended to read:

"13-27-409. ~~Liability~~ Fact statement to be supported -- liability for contents of argument. (1) A factual statement made in an argument advocating approval or rejection of a ballot issue or in a rebuttal argument to either of those arguments must be supported by documents filed by the proponents or opponents with the secretary of state within 2 business days of the date on which the statements are required be filed with the secretary of state.

(2) Nothing in this chapter relieves an author of any argument from civil or criminal responsibility for statements contained in an argument printed in the voter information pamphlet."

Section 22. Section 13-27-501, MCA, is amended to read:

"13-27-501. Secretary of state to certify ballot form --~~abbreviated ballot.~~ (1) The secretary of state shall furnish to the official of each county responsible for preparation of the ballots, at the same time as the election administrator certifies the names of the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) ~~Except as provided in subsection (4), the~~ The secretary of state shall list for each issue:

(a) the number;

(b) the method of placement on the ballot;

(c) the title;

(d) the ~~attorney general's~~ attorney general's explanatory statement, if applicable;

(e) the fiscal statement, if applicable; and

(f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot; and

(g) a statement that the issue conflicts with one or more issues, referenced by number, that also appear on the ballot, if applicable.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the

number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

- (a) an act referred by the legislature;
- (b) an amendment to the constitution proposed by the legislature;
- (c) an act of the legislature referred by referendum petition; or
- (d) a law or constitutional amendment proposed by initiative petition.

~~(4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that the county election administrator be furnished an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(e), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place."~~

Section 23. Section 13-35-207, MCA, is amended to read:

"13-35-207. Deceptive election practices. A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

- (1) falsely represents ~~his~~ the person's name or other information required upon ~~his~~ the person's registry card and causes registration with the card;
- (2) signs a registry card knowingly witnessing any false or misleading statement;
- (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- (4) falsely makes a declaration or certificate of nomination;
- (5) files or receives for filing a declaration or certificate of nomination knowing that all or part of the declaration or certificate is false;
- (6) forges or falsely makes the official endorsement of a ballot;
- (7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;
- (8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;
- (9) signs a name other than ~~his~~ the person's own to a petition, signs more than once for the same ~~measure~~ ballot issue, or signs a petition while not being a qualified elector of the state; or

(10) makes a false oath or affidavit where an oath or affidavit is required by law."

Section 24. Section 13-37-210, MCA, is amended to read:

"13-37-210. Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot ~~measure~~ issue by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot ~~measure~~ issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128."

Section 25. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before the election and the day of the election;

(c) not more than 20 days after the date of the election; and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ~~measure~~ ballot issue is submitted for review and approval pursuant to 13-27-202 during

the year or years prior to the election year that an issue is or is expected to be on the ballot;

(b) on the 10th day of March and on the 10th day of each subsequent month through September;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(a) may be made by mail or by electronic communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election; and

(c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are incidental

political committees shall report their politically related activities in accordance with this chapter.

(7) All reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

Section 26. Section 13-37-228, MCA, is amended to read:

"13-37-228. Time periods covered by reports. Reports filed under 13-37-225 and 13-37-226 must be filed to cover the following time periods even though no contributions or expenditures may have been received or made during the period:

(1) The initial report must cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate or a political committee as defined in 13-1-101 until the fifth day before the date of filing of the appropriate initial report pursuant to subsections (1) through (5) of 13-37-226. Reports filed by political committees organized to support or oppose a statewide ballot issue must disclose all contributions received and expenditures made prior to the time an issue becomes a ballot issue by approval transmission of the form of the petition to the proponent of the ballot issue or referral by the secretary of state, even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.

(2) Subsequent periodic reports must cover the period of time from the closing of the previous report to 5 days before the date of filing of a report pursuant to 13-37-226(1) through (5).

(3) Closing reports must cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee. A candidate or political committee shall file a closing report following an election in which the candidate or political committee participates whenever all debts and obligations are extinguished and no further contributions or expenditures will be received or made which relate to the campaign, unless the election is a primary election and the candidate or political committee will participate in the general election."

Section 27. Repealer. Sections 13-27-310 and 13-27-313, MCA, are repealed.

Section 28. Codification instruction. (1) [Sections 12 and 13] are intended to be codified as an integral part of Title 13, chapter 27, part 2, and the provisions of Title 13, chapter 27, part 2, apply to [sections 12 and 13].

(2) [Section 18] is intended to be codified as an integral part of Title 13, chapter 27, part 3, and the provisions of Title 13, chapter 27, part 3, apply to [section 18].

Section 29. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 30. Effective date. [This act] is effective on passage and approval.

- END -

Latest Version of SB 96 (SB0096.ENR)

Processed for the Web on April 27, 2007 (10:29am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

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